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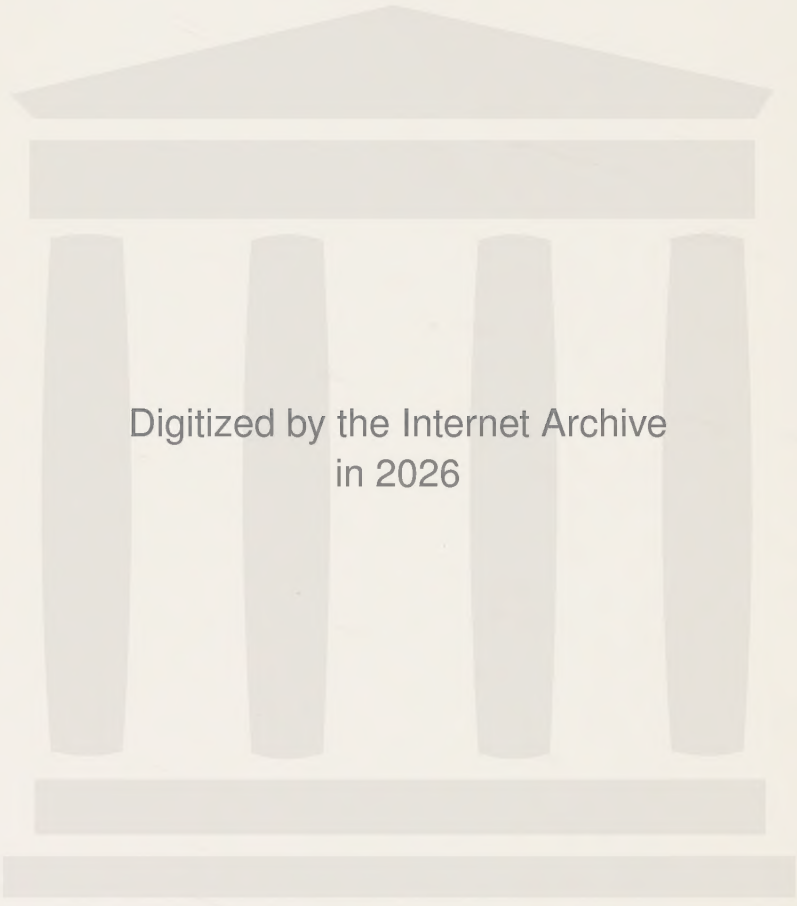
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DOCUMENTARY HISTORY

OF THE

CONSTITUTION

OF THE

UNITED STATES OF AMERICA

1786-1870

DERIVED FROM THE RECORDS, MANUSCRIPTS, AND ROLLS DEPOSITED IN THE BUREAU OF ROLLS AND LIBRARY OF THE DEPARTMENT OF STATE

VOLUME V

WASHINGTON
DEPARTMENT OF STATE
1905

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Documentary History of the Constitution.

BULLETIN

OF THE

BUREAU OF ROLLS AND LIBRARY

OF THE

DEPARTMENT OF STATE.

No. 11—Part 2.

SEPTEMBER, 1905.

WASHINGTON:
DEPARTMENT OF STATE.
1905.

Documentary History of the Constitution of the United States of America.

1786-1870.

DERIVED FROM THE RECORDS, MANUSCRIPTS, AND ROLLS DEPOSITED IN THE DEPARTMENT OF STATE.

PART 2.—LETTERS AND PAPERS RELATING TO THE CONSTITUTION, FROM AUGUST 1, 1788, TO THE DEATH OF MADISON; APPENDIX; BIBLIOGRAPHY.

Documentary History of the Constitution of the United States of America.

1786-1870.

LETTERS AND PAPERS—Continued.

Th: Jefferson to Colº W. S. Smith.

[Jefferson Papers, series 1, vol. III, No. 153. Press copy.]

Paris Aug. 2. 1788.

* * * you arrive just in time to see the commencement of a new order of things. our political machine is now pretty well wound up; but are the spirits of our people sufficiently wound down to let it work glibly? I trust it is too soon for that, and that we have many centuries to come yet before my countrymen cease to bear their government hard in hand.

* * * * * * *

Th: Jefferson to The honble J. Jay.

[Jefferson Papers, series 1, vol. III, No. 155. Press copy.]

Paris Aug. 3. 1788.

* * * * * * *
* * * * * * *

News of the accession of nine states to the new form of federal government has been received here about a week. I have the honour to congratulate you sincerely on this event. of it's effect at home you are in the best situation

to judge. on this side the Atlantic it is considered as a very wise reformation. in consequence of this, speculations are already begun here to purchase up our domestic liquidated debt. indeed I suspect that orders may have been previously lodged in America to do this as soon as the new constitution was accepted effectually. * * *

[Washington Papers, Letter-book 6C, p. 207. Transcript.]

G Washington to The Honble John Jay Esqr

Mount Vernon August 3^d^ 1788

The letters which you did me the favor of writing to me on the 17th and 23^d^ of last month from Poughkeepsie came duly to hand, and claim my particular acknowledgments With peculiar pleasure, I now congratulate with you on the success of your labours to obtain an unconditional ratification of the proposed Constitution in the Convention of your State. The acc^t^ of which was brought to us by the Mail of yesterday. Although I could scarcely conceive it possible after ten States had adopted the Constitution that new York seperated as it is from the other three and peculiarly decided in sentiments as it is, would withdraw from the Union—yet considering the great majority which appeared to cling together in the Convention and the decided temper of the leaders,—I did not I confess see the means by which it was to be avoided—The exertion of those who were able to effect this great work must have been equally arduous and meritorious—It is to be hoped that the State of North Carolina will not spend much time in deciding upon it—but as to Rhode Island its conduct hath so far baffled all calculation that few are disposed to hazard a conjection thereon.

G.º Washington to General Nelson.

[Washington Papers, Letter-book 6C, p. 206. Transcript.]

Mount Vernon August 3.d 1788

* * * * * * *

Far, very far indeed was it from my intention to embarrass you by the letter which enclosed the proceedings of the Gen.l Convention—and still farther was it from my wish that the communication should be received in any other light than as an instance of my attention and Friendship.—I was well aware that the adoption or rejection of the Constitution would, as it ought to be, decided upon according to its merits & agreeably to the circumstances to which our public affairs had arriven.—That all questions of this kind are,—ever will—and perhaps ought to be (to accomplish the designs of infinite wisdom) viewed through different mediums by different men is as certain as that they have existance—all that can be expected in such cases therefore is charrity mutual-forbearance and acquiescence in the gen.l vice; which, though it may be wrong is presumably right.

* * * * * * *

G.º Washington to The Hon.ble Ja.s Madison.

[Washington Papers, Letter-book 6C, p. 204. Transcript.]

Mount Vernon August 3.d 1788

Your favours of the 21.st and 27.th of last Month came duly to hand. The last contained the pleasing—and may add (though I could not reconcile it to any ideas I entertained of common policy) unexpected account of the unconditional Ratification of the Constitution by the State of New York—That North Carolina will hesitate long in its choice, I can scarcely believe, but what Rhode Island will do, is more

difficult to say though not worth a conjecture, as the Conduct of the majority there has hitherto baffled all calculation.

The place proper for the New Congress to meet at, will, unquestionably undergo if it has not already done it, much investigation; but there are certain things which are so self-evident in their Nature as to speak for themselves—This, possibly, may be one—where the true point lays I will not undertake to decide but there can be no hesitation I think in pronouncing that in all Societies, if the band or cement is strong and interesting enough to hold the body together the several parts should submit to the inconveniences for the benefits which they derive from the conveniences of the compact.

We have nothing in these parts with communicating. Towards New York we look for whatever is interesting till the States begin to act under the new form which will be an important epoch in the Annals of this Country.

[Letters to Washington, vol. LXXIII, p. 28. A postscript to letter of July 31.]

Geo: Morgan to His Excellency Gen[l] Washington.

New York August 5th. 1788.

The Organization of the New Government has been long retarded by a Difficulty in uniting seven States to vote for one Place—The Contest lay between New York & Philadelphia. As both Parties could not be indulged, a Vote was carried yesterday for Baltimore; so that the Ordinance will be completed this Morning, unless New York succeeds in their Intention to move for a Reconsideration of it, as the Place is not agreeable to several of the most southern States, tho' they voted for it—

John Brown Cutting to His Exy Thomas Jefferson Esquire [Jefferson Papers, series 2, vol. XIV, No. 91.]

London August 8. 1788

I have heretofore had the honor to announce to you the accession ["the accession" stricken out] of South Carolina, Maryland and New Hampshire to the new national system of government for the United States. But neither of those annunciations, not even the assent of the last (which made the ninth) state legitimating a fresh union afforded me that degree of satisfaction which I feel in now communicating to you the ratification of that important and most essential Commonwealth, Virginia. I very much regret that the result only (and not the details) of your Convention is given me. This however I have just received from Mr William Anderson a virginian by birth (now a merchant in London) who has unsealed a letter from his brother in Virginia, dated June 26th, who says yesterday being the 25th, the grand question concerning the national government was finally determin'd in favour of adopting by a majority of eleven. But notwithstanding the number of the minority they exhibited much moderation after the decision—and promised to conciliate and harmonize their constituents. The vessel which brought the above letter left Virginia the 1st of July and arrived at Glasgow a few days since. There are other letters in town confirming the same fact. Several merchantmen are hourly expected here from Virginia. Therefore I hope to possess all the particulars soon which in that case, will be immediately transmitted to you

Permit me with the most unfeign'd satisfaction to congratulate you upon an event ["that completing" stricken out] ensuring the establishment of a constitution that with a very few amendments may perpetuate the political freedom and

social happiness of a republic which promises to be commensurate with a Fourth part of the Globe.

[Jefferson Papers, series 2, vol. XXV, No. 71.]

C W F Dumas to S. E. Mr. Jefferson

La haie 8e Août 1788 au matin

* * * * * * *

Je crois devoir transcrire ici ce qu'on me mande d'Amst. en date d'hier

"Yr Conclusion, that the Baltimore ship [On m'avoit appris par Lettre du 26, qu'un Bâtiment de là venoit d'aborder au Texel, & l'on espéroit de pouvoir m'apprendre le lendemain qu'il portoit la nouvelle de l'accession de la Virginie] "could not bring any Intellige about the Decision of the "Virginia Convention, was very just. And I am sorry to "acquaint you, a Vessel arrived at Bordeaux, conveys the "News, that the Convention of Virginia had postponed "deciding upon the Business until a future day. This is "a very unexpected Stroke. However, as we have no further "particulars, it will be well not to publish any thing on the "subject, before we know the Day the Convention was post-"poned to, and the motives for such a Measure.—We must "recollect, it is the same Step as N. Hampshire pursued.— "Perhaps they had not yet heard the Accession of the 9th "State, and did not choose to be the concluding one.—Or, it "is not improbable, that seeing the Constitution established, "they will wait the Meeting of the new Congress, and the "passing of the Bill of Right mention'd by Mr. Jn as the "terms of their coming in. These are but Conjectures, we "must wait the Event, which I am as yet very little fearful "about."

Après ce que V. E. vient de lire, je ne crois pas avoir besoin de lui dire combien je languis de savoir le positif de tout cela, dès que V. E. le saura elle-même. La derniere conjecture de mon correspondant me paroît profonde & sage; & je l'adopte en attendant.

* * * * * * *

Th: Jefferson to Colº Monroe.

[Jefferson Papers, series 1, vol. III, No. 162. Press copy.]

Paris Aug. 9. 1788.

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I heartily rejoice that 9 states have accepted the new constitution. as yet we do not hear what Virginia, N. Carolina & N. York have done, & we take for granted R. islᵈ is against it. this constitution forms a basis which is good, but not perfect. I hope the states will annex to it a bill of rights securing those which are essential against the federal government; particularly trial by jury, habeas corpus, freedom of religion, freedom of the press, freedom against monopolies, & no standing armies. I see so general a demand of this that I trust it will be done. there is another article of which I have no hopes of amendment because I do not find it objected to in the states. this is the abandonment of the principle of necessary rotation in the Senate & Presidency. with respect to the last particularly it is as universally condemned in Europe, as it is universally unanimadverted on in America. I have never heard a single person here ∧ speak of it without condemnation, because on the supposition that a man being once chosen will be always chosen, he is a king for life, & his importance will [produce "call for" stricken out] the same brigues & cabals foreign

& domestic which the election of a king of Poland and other elective monarch["s" written upon "ies" stricken out] have ever produced. so that we must take refuge in the end in hereditary monarchy, the very evil which grinds to atoms the people of Europe.

* * * * * * *

[Letters to Washington, vol. LXXIII, p. 34.]

B Lincoln to His Excellency Gen Washington

Boston Augt 9th 1788

I congratulate your Excellency on the adoption of the new constitution by your State and thank your Excellency for the information It is important to all that New York has at last come in—

Things remain much as they were in this State—I have no doubt but that the people here will embrace the new constitution

* * * * * * *

[Jefferson Papers, series 2, vol. LVI, No. 101.]

Le c^{t} De Montmorin to M. Jefferson.

A Versailles le 9. Août 1788.

J'ai reçu, Monsieur, la lettre que vous m'avez fait l'honneur de m'écrire le 30 du mois d^{er}, et par laquelle vous avez bien voulu m'informer que la nouvelle Constitution proposée pour les Etats-Unis, a été établie par neuf Etats. Je me suis fait un devoir de rendre compte de cet événement au Roi: Sa M^{té} l'a apris avec d'autant plus de satisfaction qu'elle ne doute pas qu'il ne contribue essentiellement à la considération comme à la prospérité de votre patrie.

Samuel Powel to His Excellency Genl Washington

[Letters to Washington, vol. LXXIII, p. 35.]

Philadelphia August 9. 1788

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The Accounts from New York are that Congress after appointing Baltimore as the Seat of the new Government, in a Committee of the whole House, rejected the Report of the Committee, & named New York as the Place, after agreeing upon this, it was found that Rhode Island could not, with propriety sign the Mandate for the Elections in the different States, so that the place of meeting is yet to be fixed upon. Is not this manner of Proceeding destitute of all Dignity. I confess that as ["a" stricken out] an American I feel mortified at this trifling with the Sensibilities of the Union, which I believe were never more alive than on the present Occasion—But I trust all will yet end well

* * * * * * *

John Brown to His Exc[y] Th[s] Jefferson Esq[r]

[Jefferson Papers, series 2, vol. IV, No. 22.]

New York August 10th 1788

Your favor of the 28th May came to hand a few days ago for which accept my warmest acknowledgements

I am well convinced of the Justness of your remarks respecting the importance of strengthening & maintaining the connection between the District of Kentucky & the Maritime States: During my residence in that Country it was my constant care to cultivate that Idea But I am sorry to inform you that from the present complection of affairs there is reason to apprehend that the Connection will not be of long duration. Congress have rejected their application to be admitted into the Union as an Independent State

notwithstanding it was ["admited" stricken out] acknowledged to be reasonable—thinking it inexpedient in the present State of the Confederacy & that the admission of a New State might affect the Ballance of power unless Vermont could be brought forward at the same time. This will be considered by the people of that Country as a great disappointment inasmuch as they have been more than three years in bringing forward this application & as they are now refered to the New Government, to be admitted under which in a Constitutional mode must necessarily be attended with considerable delay Their vast increase in population (amounting to at least one hundred thousand souls in that District alone) added to the great danger & difficulty attending a communication with the Seat of Government renders their connection with Virginia so burdensom that there is every reason to expect that immediately on hearing that Congress have refused to receive them they will assume their Independence. Should they take this Step I think it very problematical whether or not they will apply for admission into the new Confederacy; especially as they are generally opposed to the new Constitution apprehending much inconvenience & danger from the Judicial System & fearing that the Powers vested in the General Government may enable to carry into effect the proposed Treaty with Spain relative to the Navigation of the Mississipi. Indeed the ill advised attempt to cede the navigation of that River has laid the foundation for the dismemberment of the American Empire by distroying the confidence of the people in the Western Country in the Justice of the Union & by inducing them to dispair of obtaining possession of that Right by means of any other exertions than their own. However as

we are informed by the Governour of the Western Territory that there is great reason to apprehend a general Indian War, I hope that Kentucky will see the danger & impropriety of breaking off from the Union at this time & that it may still be in the power of Congress to conciliate their minds & to seure their attachment to the Confederacy—

I inclose you two Gazettes containing the Ratifications of the New Constitution by Virginia & New York The Convention of N Carolina has been for some time past in Session & we daily expect to hear that she has adopted it—Rhode Island it is expected will shortly see the propriety of acceeding as yet there is a Majority in that State opposed—Those who were opposed in those States which have ratifyed appear generally to acquiess—Congress has been for some time past engaged in giving it operation Electors are to be appointed on the first Wedensday in January, to chuse a President on the first Wedensday in February & the New Congress to meet on the first Wedensday in March next but the place where has been the subject of much warmth & is not yet agreed upon—tho I think it probable that it will be at Philadelphia

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J[s] Madison Jr to M[r] Jefferson

[Madison Papers, vol. IV, p. 50.]

New York Aug[st] 10. 1788

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My last went off just as a vote was taken in the Convention of this State which foretold the ratification of the new Government. The latter act soon followed and is inclosed. The form of it is remarkable. I inclose also a circular address to the other States on the subject of amend-

[Enclosures missing]

ments, from which mischiefs are apprehended. The great danger in the present crisis is that if another Convention should be soon assembled, it would terminate in discord, or in alterations of the federal system which would throw back essential powers into the State Legislatures. The delay of a few years will assuage the jealousies which have been artificially created by designing men and will at the same time point out the faults which really call for amendment. At present the public mind is neither sufficiently cool nor sufficiently informed for so delicate an operation.

The Convention of North Carolina met on the 21st Ult: not a word has yet been heard from its deliberations. Rhode Island has not resumed the subject since it was referred to & rejected by the people in their several Towns.

Congress have been employed for several weeks on the arrangements of times & place for bringing the new Government into agency. The first have been agreed on though not definitively, & make it pretty certain that the first meeting will be held in the third week in March. The place has been a subject of much discussion, and continues to be uncertain. Philad[a] as least excentric of any place capable of affording due accomodations and a respectable outset to the Government was the first proposed. ["In" erased] The affirmative votes were N. Hampshire, Connecticut, Pen[a] Mary[d] Virg[a] and N. Carolina. Delaware was present & in favor of that place, but one of its delegates wishing to have a question on Wilmington previous to a final determination, divided that State and negatived the motion. N. York came next in view, to which was opposed

first Lancaster which failed, and then Baltimore which to the surprize of every body was carried by seven States, S. Carolina which had preferred N. York to the two other more Southern positions, unexpectedly concurring in this. The vote however was soon rescinded, the State of S. Carolina receding from, the Eastern States remonstrating, against, and few seriously urging the elegibility of Baltimore. At present the question lies as it was originally supposed to do between N. York & Philad[a] and nothing can be more uncertain than the event of it. Rhode Island which alone was disposed to give the casting vote to N. York has refused to give any final vote for arranging & carrying into effect a system to which that State is opposed, and both the Delegates have returned home.

Col. Carrington tells me he has sent you the first volume of the federalist, and adds the 2[d] by this conveyance. I believe I never have yet 342 · 1359 · 770 · 1234 · 698 · 809 · 133 · 310. It 1293 · 1054 · 475 · 640 · 293 · 548 · 1461 · 227 · 1247 · 775 · 983 · 1064 · 673 · 951 · 440. The 493 · 450 · 1321 · 252 · 812 · 1091 · 1067 · 1645. The 577 · 918 · 1293 · 612 · 1256 · 1461 · 812 · 431 · 942 · 546 · 1352 · 227 · 1247 · 1619 · 1593 · 1179 · 812 · 1091 · 1327. Though 1326 · 1359 · 149 · 1527 · 1163 · 865 · 812 · 1476 · 1185 · 1470 · 549 733 · 824 · 975 · 157 · 1048 · 1645 · 939 · for ["the" stricken out] 464 · 764 · 1352 · 320 · 1327 · there being 718 · 1290 · 1020 · 208 · 344 · 101 · 576 · 1162 · 450 · of the 1635 · 1186 · 649 · 1461 · 966 · 963 · 812 · 1476 · 1185 · 572 · 1174 · 1260 · 1261 · 920 · 1359 · 301 · 812 · 498 · and 473 · 1020 · 1288 · 1593 · 1461 · 812 · 1476 · 1185 · 935 · 440.

publication was undertaken mentioned to you that
Jay Hamilton and myself proposal
came from the two former execution was
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ideas of each other seldom
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by any but the writer before they were
wanted at the press some times, hardly
by the writer himself

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[Jefferson Papers, series 2, vol. XIII, No. 97.]

Ed. Carrington to M.r Jefferson

New York Aug.t 10. 1788

Having but a few minutes notice of this opportunity by M.r Tillier I can make but little more use of it, than to acknowledge the receipt of your favor of the 27.th of May, and to send you the second Vol. of the Fœderalist. the first, I hope, you have received before this.—Virginia & New York have both adopted the constitution, as you will be now particularly informed by M.r Madison & M.r Brown, who have written you. North Carolina commenced her session on the 17.th Ult. and is probably the 12.th adopting State before this day. Rhode Island has taken no regular step in the business as yet—a kind of informal reference of it was made to the people by the Legislature, which terminated something like a rejection. I suppose however that she must soon take measures for adopting—perhaps no coercive measures would be pursued to compel her, but it is impossible she can continue to treat with contempt a measure which is so generally embraced by the other States.

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[Letters to Washington, vol. LXXIII, p. 39. Madison Papers, vol. IV, p. 51. Copy.]

Js. Madison Jr. to Gen.l Washington

New York Aug.st 11. 1788

I have been duly favored with yours of the 3.d instant. The length of the interval since my last has proceeded from a daily expectation of being able to communicate the final arrangements for introducing the new Government. The place of meeting has undergone much discussion as you conjectured and still remains to be fixed. Philad.a was first

named, & negatived by a voice from Delaware. N. York came forward next. Lancaster was opposed to it & failed. Baltimore was next tried and to the surprise of every one had seven votes. It was easy to see that that ground had it been free from objections was not maintainable. Accordingly the next day N. York was inserted in the place of it with the aid of the vote of Rhode Island. Rhode Island however has refused to give a final vote in the business and has actually retired from Congress. The question will now be resumed ["whether" stricken out] between N. York & Philad[a] It was much to be wished that a fit place for a respectable outset to the Gov[t] could be found more central than either. The former is inadmissible if any regard is to be had to the Southern or Western Country. It is so with me for another reason, that it tends to stop the final & permanent seat short of the Potowmac certainly, and probably in the State of N. Jersey. I know this to be one of the views of the Advocates for N. York. The only chance the Potowmac has is to get things in such a train that a coalition may take place between the Southern & Eastern States on the subject, and still more that the final seat may be undecided ["may not be suspended" stricken out] for two or three years, within which period the Western & S. Western population will enter more into the estimate. Wherever Congress may be, the choice if speedily made will not be sufficiently influenced by that consideration. In this point of view I am of opinion Baltimore would have been unfriendly to the true object. It would have retained Congress but a moment, so many States being North of it, and dissatisfied with it, and would have produced a coalition among those States

& a precipitate election of the permanent seat & an intermediate removal to a more northern position.

You will have seen the circular letter from the Convention of this State. It has a most pestilent tendency. If an early general Convention cannot be parried, it is seriously to be feared that the System which has resisted so many direct attacks may be at last successfully undermined by its enemies. It is now perhaps to be wished that Rho. Island may not accede till this new crisis of danger be over. Some think it would have been better if even N. York had held out till the operation of the Government could have dissipated the fears which artifice had created and the attempts resulting from those fears & artifices. We hear nothing yet from N. Carolina more than comes by the way of Petersburg.

[Jefferson Papers, series 1, vol. III, No. 165. Press copy.]

Th: Jefferson to Mr Carmichael.

Paris Aug. 12. 1788.

* * * my latest American intelligence is of the 24th of June when 9. certainly & probably 10. states had accepted the new constitution, and there was no doubt of the 11th (North-Carolina) because there was no opposition there. in New-York $\frac{2}{3}$ of the state was against it, and certainly if they had been called to the decision in any other stage of the business, they would have rejected it. but before they put it to the vote, they would certainly have heard that 11. states had joined in it, and they would find it safer to go with those 11. than put themselves into opposition with Rhode island only. tho' I am much pleased with this succesful issue of the new constitution, yet I am more so

to find that one of it's principal defects (the want of a Declaration of rights) will pretty certainly be remedied. I suppose this, because I see that both people & Conventions in almost every state have concurred in demanding it. another defect, the perpetual re-eligibility of the same president, will probably not be cured during the life of General Washington. his merit has blinded our countrymen to the dangers of making so important an officer re-eligible. * * *

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A Hamilton to General Washington

[Hamilton Papers, vol. V, p. 85.]

New York Aug 13. 1788

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I have delivered to Mr Madison to be forwarded to you a sett of the papers under the signature of Publius, neatly enough bound, to be honored with a place in your library. I presume you have understood that the writers of these Papers are chiefly Mr Madison & myself with some aid from Mr Jay.

* * * * * * *

Th: Jefferson to Mr [Stephen] Cathalan

[Jefferson Papers, series 1, vol. III, No. 167. Press copy.]

Paris Aug. 13. 1788.

* * * I have the pleasure to inform you that the new constitution proposed to the United states, has been established by the votes of 9. states. it is happy for us to get this operation over before the war kindled in Europe could affect us, as by rendering us more respectable we shall be more probably permitted by all parties to remain neutral.

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[Jefferson Papers, series 2, vol. XIV, No. 92.]

John Brown Cutting to His Excellency Thomas Jefferson Esquire

London Aug. 15th 1788

* * * * * * *

The inclosed Newspaper contains all that I know respecting the proceedings of New York—excepting the opinion of a gentleman lately from that City—who says a majority of the Convention will certainly assent to the fœderal constitution. If any thing interesting or even amusing from any of the United States shoud arrive within these ten day you may rely upon an early communication of it.

* * * * * * *

[Washington Papers, Letter-book 7, p. 1. Transcript.]

George Washington to Charles Pettit Esquire of Phila

Mount Vernon August 16th 1788

I have to acknowledge with much sensibility the receipt of your letter, dated the 5th instant, in which you offer your congratulations on the prospect of an established government, whose principles seem calculated to secure the benefits of society to the Citizens of the United States; and in which you also give a more accurate state of fœderal Politics in Pennsylvania than I had before received. It affords me unfeigned satisfaction to find that the acrimony of parties is much abated.

Doubtless there are defects in the proposed system which may be remedied in a constitutional mode. I am truly pleased to learn that those who have been considered as its most voilent opposers will not only acquiese peacably, but co-operate in its organization and content themselves with asking amendments in the manner prescribed by the Constitution. The great danger, in my view, was

that every thing might have been thrown into the last stage of Confusion before any government whatsoever could have been established; and that we should have suffered a political shipwreck, without the aid of one friendly star to guide us into Port. Every real patriot must have lamented that private feuds and local politics should have unhappily insinuated themselves into, and in some measure obstructed the discussion of a great national question. A just opinion, that the People when rightly informed will decide in a proper manner, ought certainly to have prevented all intemperate or precipitate proceedings on a subject of so much magnitude, Nor should a regard to common decency have suffered the Zealots in the minority to have stigmatized the authors of the Constitution as Conspirators and Traitors. However unfavorably individuals, blinded by passion and prejudice, might have thought of the characters which composed the Convention; the election of those characters by the Legislatures of the several States and the refferrence of their Proceedings to the free determination of their Constituents, did not carry the appearance of a private combination to destroy the liberties of their Country.—Nor did the outrageous disposition which some indulged in traducing and vilifying the members seem much calculated to produce concord or accomodation.

For myself, I expected not to be exempted from obloquy any more than others. It is the lot of humanity.

But if the shafts of malice had been aimed at me in ever so pointed a manner, on this occasion, involved as I was in a consciousness of having acted in conformity to what I believed my duty, they would have fallen blunted from

their mark. It is known to some of my countrymen and can be demonstrated to the conviction of all, that I was in a manner constrained to attend the general Convention in compliance with the earnest and pressing desires of many of the most respectable characters in different parts of the Continent.

At my age, and in my circumstances, what sinister object, or personal emolument had I to seek after, in this life? The growing infirmities of age and the encreasing love of retirement, daily confirm my decided predilection for domestic life: and the great searcher of human hearts is my witness, that I have no wish which aspires beyond the humble and happy lot of living and dying a private citizen on my own farm.

Your candour and patriotism in endeavoring to moderate the jealousies and remove the prejudices which a particular class of Citizens had conceived against the new government, are certainly very commendable; and must be viewed as such by all true friends to their Country.

In this discription, I shall fondly hope I have[a] right to comprehend myself; and shall conclude by professing the grateful sense of your favorable opinion for me,

[Letters to Washington, vol. LXXIII, p. 48.]

Thos Ruston to His Excellency General Washington

Mount Vernon

Philada Augt 17th 1788.

Will your Excellency permit me to congratulate you on the acceptance of the new constitution by eleven of the States? An event that I think must be highly pleasing to your Excellency, for as there is no one who has con-

tributed so much towards the establishment of the liberty and independence of this Country, so I am convinced that there are none who have her happiness and prosperity more at heart. With regard to the two delinquent States (North Carolina and Rhode Island) when we consider the diversity of opinion that takes place amongst mankind upon almost every subject, it is perhaps more to be wondered at that eleven out of the thirteen should so immediately come into the measure, than that there should be two defaulters. the measure of Independence, so indispensible and necessary, if I remember right, was not immediately come into by all the States. Whatever ostensible reasons may be offered by these two States for the rejection of this constitution, from what I can learn the true one is the inhibition of paper money, a system which, as it has been practised, is founded in fraud, and the advocates of it seem loth to part with this darling privilege of cheating their neighbours according to law. but it is to be presumed that a little time and reflection will bring them to a right use of their reason.

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G° Washington to The Honble James Madison.

[Washington Papers, Letter-book 6C, p. 232. Transcript.]

Mount Vernon August 17th 1788.

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That the circular letter from the Convention of New York should be handed to the public as the unanimous sense of that Body has, I must confess, surprized me. It will, I fear, be attended with parnicious consequences. The decision of N° Carolina—unaccountable as it is—is not (in my opinion) more to be regretted.

P. S. August 18th

I had written this letter but had not dispatched it to the Post Office when your favor of the 11th was brought to me. I am clearly in sentiment with you, that the longer the question on the permanent seat of Congress is delayed, the grater certainty there will be of a central spot for it. But not having the same means of information and judging that you have, it would have been moot point with me whether a temporary residence of that body at New York would not have been a less likely means of keeping it ultimately from the Center (being farther removed from it) than if it was to at Philadelphia because in proportion as you draw to the center the inconveniences which are felt by the Southern & western extremities of the Union will be lessened, and of course their anxieties—and when to these are safe added the acquaintances and Connections which naturally will be formed—the expences which more than probably will be incurred for the Accomodation of the public Officers with a long train of atceteras it might be found an arduous task to approach nearer to the axis thereafter.

These however, are first thougts and many not go to the true principles of policy by which the case is governed.

[Jefferson Papers, series 6, vol. II, No. 79.]

Nat Barrett to His Excellency Mr Jefferson

New York Aug 18. 1788

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You will find by the inclos'd Letter to the Marqs that N° Carolina have rejected the Constitution the only difficulty apprehended from this is that it may create some uneasiness by the Effect it may have on the Inhibitants of the back

parts of Virginia—I wish the Adoption had been unanimous—as there can be no Doubt the Alterations necessary will be made—The Time of meeting is the place cannot be agreed—$4\frac{I}{2}$ states for Philadelphia. $6\frac{I}{2}$—for New York—R. I. not represented—The members for both very resolute—& shewing no present Inclination to receede—The prospect of a stable Government fills the minds of all people with pleasure except a few who are inimical to the Country—The commercial Affairs of the Country are in a more promising state than for some years—a regular system of duties & firmness in the Execution of Laws of Trade—will put [the Trade "it" stricken out] on the most respectable footing. The Exports begin to bear a comparison with the Imports, & in Massachusets are supposed to exceed— * * *

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J^s^ Madison Jr to Col. James Madison Orange County Care of Mr Maury Fredericksb^g^ Virginia [Madison Papers, vol. IV, p. 52.]

N. York Aug. 18. 88.

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We just learn the fate of the Constitution in N. Carolina. Rho. Island is however her only associate in the opposition, and it will be hard indeed if these two States should endanger a system which has been ratified by the eleven others. Congress have not yet finally settled the arrangements for putting the new Government in operation. The place for its first meeting creates the difficulty. The Eastern States with N. York contend for this City. ^Most of the Other States insist on a more central position.

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[Washington Papers, Letter-book 6C, p. 238. Transcript.]

G°. Washington to William Tudor Esqr.

Mount Vernon August 18th. 1788

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The troubles in your State, may, as you justly observe, have operated in proving to the comprehension of many minds the necessity of a more efficient general government. A multiplicity of circumstances, scarcely yet investigated, appears to have co-operated in bringing about the great, and I trust the happy, revolution, that is on the eve of being accomplished. It will not be uncommon that those things, which were considered at the moment as real ills, should have been no inconsiderable causes in producing positive and permanent national felicity. For it is thus that Providence works in the mysterious cause of events, "from seeming evil still educing good."

I was happy to hear from several respectable quarters that liberal policy & federal sentiments had been rapidly encreasing in Massachusetts for some time past: it gives me an additional pleasure to find that labour is becoming more productive and commerce more flourishing among the citizens.

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[Madison Papers, vol. XVI, p. 13.]

J Dawson to James Madison Esqr

Frdksbg. Augt 20. 1788

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The rejection of the constitution by the State of N. Carolina, at this period, has been the cause of as much surprise as the decision of New York in favour of it, as we were taught to believe it woud not be adopted by the latter, without previous amendments—The plan proposd [" ^{in} by"

stricken out] Gov[r] Clintons circular Letter is much approv'd[of], and not doubt, will be forwarded by the legislature of this State.—We are in daily expectation of receiving the Act of congress, for setting the Goverment in motion, and are doubtful on what place they will fix for the meeting of the first Congress—A report has circulated, tho I apprehend without any foundation, that Baltimore will be the spot—

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John Brown Cutting to His Excellency Thomas Jefferson Esquire [Jefferson Papers, series 2, vol. XIV, No. 94.]

London 22[d] Aug. 1788.

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There are letters in town from New-York of the 6th of July. Most of those whose written opinions have been communicated to me concur in believing that a majority in the Convention of that State will refuse their assent to the new Constitution; notwithstanding the decision of Virginia has been announced to them. It seems however that they were not in haste to decide ultimately—as the debates thereafter continued. Congress as soon as the ratification of the ninth state reach'd them officially took order for the immediate issue of precepts to organize the national government—This is written from M[r] Contee, Delegate for Maryland to his brother here—dated July. 2[d]. He adds, "the accession of Virginia it is thought will induce a reluctant vote for ratification on the part of New York".

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[Madison Papers, vol. IV, p. 53.]

J.s Madison Jr. to M.r Jefferson.

New York Aug.st 23. 1788.

My last went via England in the hands of a Swiss gentleman who had married an American lady, and was returning with her to his own Country. He proposed to take Paris in his way. By that opportunity I inclosed copies of the proceedings of this State on the subject of the Constitution. North Carolina was then in Convention, and it was generally expected would in some form or other have fallen into the general stream. The event has disappointed us. It appears that a large majority has decided against the Constitution as it stands, and according to the information here received has made the alterations proposed by Virginia the conditions on which alone that State will unite with the others. Whether this be the precise State of the case I can not say. It seems at least certain that she has either rejected the Constitution, or annexed conditions precedent to her ratification. It cannot be doubted that this bold step is to be ascribed in part to the influence of the minority in Virginia which lies mostly in the Southern part of the State, and to the management of its leader. It is in part ascribed also by some to assurances transmitted from leading individuals here, that New York would set the example of rejection. The event, whatever may have been its cause, with the tendency of the circular letter from the Convention of N. York, has somewhat changed the aspect of things and has given fresh hopes and exertions to those who opposed the Constition. The object with them now will be to effect an early Convention composed of men who will essentially mutilate the system, particularly in the arti-

cle of taxation, without which in my opinion the system cannot answer the purposes for which it was intended. An early Convention is in every view to be dreaded in the present temper of America. A very short period of delay would produce the double advantage of diminishing the heat and increasing the light of all parties. A trial for one year will probably suggest more real amendments than all the antecedent speculations of our most sagacious politicians.

Congress have not yet decided on the arrangements for inaugurating the new Government. The place of its first meeting continues to divide the Northern & Southern members, though with a few exceptions to this["e" stricken out] general description of the parties. The departure of Rho. Island, and the refusal of N. Carolina in consequence of the late event there to vote in the question, threatens a disagreeable issue to the business, there being now an apparent impossibility of obtaining seven States for any one place. The ["four" stricken out] three Eastern States & N. York, reinforced by S. Carolina, and as yet by N. Jersey, give a plurality of votes in favor of this City. The advocates for a more central position however though less numerous, seemed very determined not to yield to what they call a shameful partiality to one extremity of the Continent. It ["is" stricken out] will be certainly of far more importance under the proposed than the present system that regard should be had to centrality whether we consider the number of members belonging to the Government, the diffusive manner in which they will be appointed, or the increased resort of individuals having business with the Legislative, Executive & Judiciary department.

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[The Papers of the Continental Congress, No. 72, pp. 325, 329, 333.]

Sam Johnston President to His Excellency The President of Congress.

Edenton 24th August. 1788—

By Order of the Convention of the People of North Carolina, assembled to take into consideration the Constitution proposed, by the General Convention lately held at Philadelphia, for the Government of the United States of America, I send to your Excellency two Resolutions entered into by the said Convention

[ENCLOSURE NO. 1.]

North Carolina

In Convention 2 August 1788.

Whereas this Convention has thought proper, neither to ratify nor reject the Constitution proposed for the Government of the United States: And as Congress will proceed to act under the said Constitution, ten States having ratified the same, and probably lay an Impost on Goods Imported into the said ratifying States:

Resolved that it be recommended to the Legislature of this State, that, when ever Congress shall pass a Law for collecting an Impost in the States aforesaid, this State enact a Law for collecting a similar Impost on Goods Imported into this State and appropriate the money arising therefrom to the use of Congress.

SAM JOHNSTON President.

By order

J HUNT Sect^{y}.

[ENCLOSURE NO. 2.]

North Carolina

In Convention 2 August 1788.

Resolved Unanimously, that it be recommended to the General Assembly to take effectual measures for the redemp-

tion of the paper Currency as speedily as may be, consistent with the situation and Circumstances of the people of this State.

SAM JOHNSTON President

By order

J HUNT Sec^{y}.

J^{s} Madison Jr. to Genl Washington

New York Augst 24. 1788.

[Letters to Washington, vol. LXXIII, p. 59. Madison Papers, vol. IV, p. 54. Copy.]

I was yesterday favored with yours of the 17th. 18th. under the same cover with the papers from M^{r}. Pleasants. The Circular letter from this State is certainly a matter of as much regret, as the unanimity with which it passed is matter of surprize. I find it is every where, and particularly in Virginia, laid hold of as the signal for united exertions in pursuit of early amendments. In Pennsylv^{a} the antifederal leaders are I understand, soon to have a meeting at Harrisburg, in order to concert proper arrangements on the part of that State. I begin now to accede to the opinion, which has been avowed for some time by many, that the circumstances involved in the ratification of New York will prove more injurious than a rejection would have done. The latter w^{d} have rather alarmed the well meaning antifederalists elsewhere, would have had no ill effect on the other party, would have excited the indignation of the neighbouring States, and would have been necessarily followed by a speedy reconsideration of the subject. I am not able to account for the concurrence of the federal part of the Convention in the circular address, on any other principle than the determination to purchase an immediate ratification in any form and at any price, rather than disappoint this City

of a chance for the new Congress. This solution is sufficiently justified by the eagerness displayed on this point, and the evident disposition to risk and sacrifice every thing to it. Unfortunately the disagreeable question continues to be undecided, and is now in a state more perplexing than ever. By the last vote taken, the whole arrangement was thrown out, and the departure of Rho. Island & the refusal of N. Carolina to participate further in the business, has left eleven States only to take it up anew. In this number there are not seven States for any place, and the disposition to relax, as usually happens, decreases with the progress of the contest. What and when the issue is to be is really more than I can foresee. It is truly mortifying that the outset of the new Government should be immediately preceded by such a display of locality, as portends the continuance of an evil which has dishonored the old, and gives countenance to some of the most popular arguments which have been inculcated by the Southern antifederalists.

New York has appeared to me extremely objectionable on the following grounds. It violates too palpably the simple and obvious principle, that the seat of public business should be made as equally convenient to every part of the public, as the requisite accomodations for executing the business will permit. This consideration has the more weight, as well on account of the catholic spirit professed by the Constitution, as of the increased resort which it will require from every quarter of the Continent. It seems to be particularly essential that an eye should be had in all our public arrangements to the accomodation of the Western Country, which perhaps cannot be sufficiently gratified at any rate, but which might be furnished with new fuel to its

jealousy by being summoned to the sea-shore & almost at one end of the Continent. There are reasons, but of too confidential a nature for any other than verbal communication, which make it of critical importance that neither cause, nor pretext should be given for distrusts in that quarter of the policy towards it in this. I have apprehended also that a preference so favorable to the Eastern States would be represented in the Southern as a decisive proof of the preponderance of that scale, and a justification of all the anti-federal arguments drawn from that danger. Adding to all this the recollection that the first year or two will produce all the great arrangements under the new system, and which may fix its tone for a long time to come, it seems of real importance that the temporary residence of the new Congress, apart from its relation to the final residence, should not be thrown too much towards one extremity of the Union. It may perhaps be the more necessary to guard agst suspicions of partiality in this case, as the early measures of the new Government, including a navigation act will of course be most favorable to this extremity.

But I own that I am much influenced by a view to the final residence, which I conceive more likely to be properly chosen in Philad^{a} than in New York. The extreme eccentricity of the latter will certainly in my opinion bring on a premature, and consequently an improper choice. This policy is avowed by some of the sticklers for this place, and is known to prevail with the bulk of them. People from the interior parts of Georgia, S.C. N.C. V^{a} & Kentucky will never patiently repeat their trips to this remote situation, especially as the legislative sessions will be held in the

winter season. Should no other consequence take place than a frequent or early agitation of this contentious subject, it would form a strong objection ag^st^ N. York.

Were there reason to fear a repugnance to the establishment of a final seat, or a choice of a commercial City for the purpose, I should be strongly tempted to shun Philad^a^ at all events. But my only fear on the first head is of a precipitancy in carrying that part of the federal Constitution into effect, and on the second the public sentiment as well as other considerations is so fixedly opposed ["that" stricken out] as to banish the danger from my apprehensions. Judging from my own experience on this subject, I conclude that from motives of one sort or another ten States at least (that is 5 from each end of the Union) to say nothing of the Western States will at any proper time be ready to remove from Philad^a^ The only difficulty that can arise will be that of agreeing on the place to be finally removed to and it is from that difficulty alone, and the delay incident to it, that I derive my hope in favor of the banks of the Potowmac. There are some other combinations on this subject into which the discussion of it ["the subject" stricken out] has led me, but I have already troubled you with more I fear than may deserve your attention.

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[Washington Papers, Letter-book 6C, p. 255. Transcript.]

G Washington to The Honble Alex: Hamilton.

Mount Vernon August 28th 1788

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As the perusal of the political papers under the signature of Publias has afforded me great satisfaction, I shall cer-

tainly consider them as claiming a most distinguished place in my Library. I have read every performance which has been printed on one side and the other of the great question lately agitated (so far as I have been able to obtain them) and, without an unmeaning compliment, I will say that I have seen no other so well calculated (in my judgment) to produce conviction on an unbiassed Mind, as the Production of your Triumvirate. when the transient circumstances and fugitive performances which attended this Crisis shall have disappeared, that Work will merit the Notice of Posterity; because in it are candidly and ably discussed the principles of freedom and the topics of government, which will be always interesting to mankind so long as they shall be connected in Civil Society.

The circular letter from your Convention, I presume, was the equivalent by which you obtained an acquiescence in the proposed Constitution. Notwithstanding I am not very well satisfied with the tendency of it; yet the fœderal affairs have proceeded, with few exceptions, in so good a train, that I hope the political Machine may be put in motion, without much effort or hazard of miscarrying.

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G°. Washington to Maj^r. Genl. Lincoln

Mount Vernon August 28th. 1788

[Washington Papers, Letter-book 6C, p. 251. Transcript.]

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The public appears to be anxiously waiting for the decision of Congress, respecting the place for convening the National Assembly under the new government, and the Ordinance for its organization. Methinks it is a great misfortune, that local

interests should involve themselves with fœderal concerns, at this moment.

So far as I am able to learn, fœderal principles are gaining ground considerably. The declaration of some of the most respectable characters in this state (I mean of those who were opposed to the government) is now explicit that they will give the Constitution a fair chance, by affording it all the suport in their power. Even in Pennsylvania the Minority, who were more violant than in any other place, say the will only seek for amendments in the mode pointed out by the Constitution itself.

I will however, just mention by way of caveat, there are suggestions, that attempts will be made to procure the election of a number of antifœderal Characters, to the first Congress, in order to embarrass the wheels of government and produce premature alterations in its Constitution. How these hints, which have come through different channels, may be well or ill founded, I know not: but, it will be advisable, I should think, for the fœderalists to be on their guard so far as not to suffer any secret machinations to prevail, without taking measures to frustrate them. That many amendments and explanations might and should take place, I have difficulty in conceding; but, I will cofess, my apprehension is that the New York Circular letter is intended to bring on a general Convention at too early a period, and in short, by referring the subject to the Legislatures, to set every thing afloat again. I wish I may be mistaken in imagining, that there are persons, who, upon finding they could not carry their point by an open attack against the Constitution, have some sinister designs to be silently effected, if possible. But I trust in that Providence which has saved us in six troubles,

yea in seven, to rescue us again from any imminent, though unseen, dangers. Nothing, however, on our part ought to be left undone. I conceive it to be of unspeakable importance, that whatever there be of wisdom, and prudence, and patriotism on the Continent, should be concentred in the public Councils, at the first outset.

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John Brown Cutting to His Excellency Thomas Jefferson Esquire. [Jefferson Papers, series 2, vol. XIV, No. 96.]

London 30 Aug. 1788

The inclosed paper contains some few articles of intelligence which perhaps may not have reached you by any other channel. When the last vessels quitted New York about the 8th of July—the convention of that State still continued to debate upon the great question of rejecting or adopting the national constitution: and it is with concern I perceive that the probabilities against an immediate adoption of the same seem so much to preponderate. On the 4th of July we are told a riot was excited at Albany—by Mesrs. Lansing, Judge Yates and a Mr Jeremiah Van Ransaleer three of those gentlemen of consideration in that district who have uniformly opposed fœderal measures—and two of whom are now ^ of the state, as they were also last summer of the general convention. The rumour runs thus—that these chieftains ["had the indiscretion" stricken out] on the day above-named (while a large number of the fœderalists of Albany were testifying their joy at the return of an anniversary whereon they cou'd at once celebrate the birth day of the empire—and the event of the recent ratification of Virginia) ventured ^ at the head of a considerable throng

to disturb the festivity of their fellow citizens by appearing on the same ground with intent to disclose how much they disregarded the example of the Convention of Virginia and abhorred the new system of government. To manifest these sentiments most unequivocally they produced on the ["ground" stricken out] spot a copy of the doings of the fœderal convention, and also of the late intelligence from Virginia—to which they applied in contumely a parcel of combustibles previously prepared for the purpose and consumed both. ["on the" stricken out] This symbol of their hostile sentiments was the signal of an immediate onset: each party attacked the other with sticks and swords: ["and" stricken out] several were badly wounded—on both sides;—two it is said on that of the antifœderalists mortally. The affray ended in conducting Mes[s] Yates, Lansing and Van Ransalear to prison—but reports say the City was not tranquilized. I sincerely wish the whole story may prove a misrepresentation of y[e] truth. The inhabitants of the City of New York, of Long, Staten and York Islands, and of the Counties of East & West Chester—in fine of most of the maritime territory in the state, seem unanimously resolute to adhere to the general government—and talk loudly of beseeching the new Congress for a dismemberment from those Counties in the rear, the representatives of which are so extremely strenuous for a seperate sovereignty. Certain it is that in the Convention at present, Governor Clinton's party, as it is called, outnumber their antagonists in the proportion of two to one. It is no less manifest that this gentleman and all those who are personally attached to him have uniformly acted against the general government argued against it and still continue so to do. Whether this proceeds from honest and patriotic

motives—or results from sinister views—they must surely perceive that the solitary opposition of New York will ultimately prove abortive. Wherefore I am inclined to think they may yet acquiesce—after having retarded their assent—perhaps by an adjournment—or some other device which may enable them to secure for the seperate use of the state, another years amount of their impost.

I find Virginia did not adjourn immediately after the ratification—but continued sitting for the laudable purpose of digesting suitable amendments;—which from the ability of the committee appointed to prepare and bring them in—as well as from the circumstance of their possessing the previous suggestions of so many other states on the same subject—will I hope unite the suffrages of congress and satisfy every candid and rational mind in the minorities throughout the Union. The Assembly of your Commonweath I observe were convened on the 23d of June and made of choice of Mr Mathews for their Speaker. Probably your intelligence concerning all these minuter particulars is regular, early and exact—but possibly not—and therefore I hint them. It is for the same reason I subjoin the following extract from the Journals of Congress June 2 1788.

"According to order the house was resolved into a committee of the whole, and after some time the President resumed the chair, and Mr Otis reported that the committee of the whole had taken into consideration the subject refer'd to them and agreed thereon to report, That in their opinion it is expedient that the district of Kentuckey be erected into an independant state, and therefore they submit the following resolution, "That the address and resolutions from the district of Kentuckey with the acts of the legislature of

Virginia therein specified be refer'd to a committee consisting of a member from each state to prepare and report an act for acceding to the Independance of the said district of Kentuckey, and for receiving the same into the union as a member thereof in a mode conformable to the articles of confederation". "June 3d, Resolved that Congress agree to the said Report".

I understand from good authority that there are between sixty and one hundred thousand inhabitants within the district of Kentuckey.

The magnificent procession of five thousand citizens of Philadelphia on the 4th of July in honor of the day—of a new æra—and of the ten states which had already contributed to establishd it was a spectacle so singularly splendid—that I am not surprized to see it copied even into english newspapers. Mr Paine promises to hand you Mr Hopkinsons pictured description of it.

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[Madison Papers, vol. XVI, p. 15.]

Jas Gordon Jun to Jas Madison Esqr

Germanna August 31st 1788

Your several letters of the 25 & 27 of July I have received and should have answered them ere this but they did not come to hand untill a few days since at Orange C. House.

I am pleased to find the ratification of the constitution by new York was unconditional but I fear from the Circular letter therefrom much disquietude may succeed, in those states where the majoritys are not large—I expect th["at" written upon "is"] letter will be eagerly caught by Mr P. Henry who in our next assembly will be greatly an over

match for any federalist that I know in the same—I trust there are a majority of Federalist in the House who I hope will firmly withsand the artfull Intrigues of designing men; but there are instances of the most heroic conduct being defeated for want of a competant commander; such an one I fear we have not in our House of Delegates—

I have carefully perused the numbers of the Federalist and am happy to say the arguments therein contained are sufficiently satisfactory to my mind and must carry conviction to every candid reader. we are all in quiet at present; there appears to be little or no opposition from the Anties & have been informed they are generally pretty well satisfied but I rather think their conduct is intended to lull the friends to the new government into a state of security and then in the fall to make a violent attack—I am sorry to find N. York are as the Virginia convention against the power of direct taxation without which I fear nay I am certain the most apparent evils will insue to form a government without such a necessary power would be nearly as ridiculous as for Such a goverment to send persons to transact business of importance far distant without the sufficient sum of money to enable such persons to make good their journey and therby to obtain requisitions from those who were not compelled to assist: should such an amendment take place the long and glorious endeavours of our Patriots will be (of little or) far less beneficial consequences than their unwearied attention for the interest of America merited—

The conduct of N. Carolina you have seen should they be fortunate enough to be seconded by Rhode Island from their local situation, their knowledge in Political science and numbers the eleven confederated States have every thing to

fear; good God what can they promise themselves! being the consumers of two Importing states, and so unable to stand upon their own ground I should have thought they would have greedily caught the union; it is reported Mr Henry has influenced their councils considerably since the rising of our convention, the truth of which I have not sufficient knowledge—

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[Jefferson Papers, series 2, vol. LXXXIV, No. 98. Washington Papers, Letter-book 6 C, p. 267. Transcript.]

G^o^ Washington to His Excellency Thomas Jefferson.

Mount Vernon Augt 31st 1788.

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The merits and defects of the proposed Constitution have been largely & ably discussed.—For myself, I was ready to have embraced any tolerable compromise that was competent to save us from impending ruin; and I can say, there are scarcely any of the amendments which have been suggested, to which I have much objection, except that which goes to the prevention of direct taxation,—and that, I presume, will be more strenuously advocated and insisted upon hereafter than any other.—I had indulged the expectation, that the New Government would enable those entrusted with its administration to do justice to the public creditors and retrieve the National character.—But if no means are to be employed but requisitions, that expectation was vain and we may as well recur to the old Confœderation.—If the system can be put in operation without touching much the Pockets of the People, perhaps, it may be done; but, in my judgment, infinite circumspection & prudence are yet neces-

sary in the experiment.—It is nearly impossible for any body who has not been on the spot to conceive (from any description) what the delicacy and danger of our situation have been.—Though the peril is not passed entirely; thank God! the prospect is somewhat brightening.—You will probably have heard before the receipt of this letter, that the general government has been adopted by eleven States; and that the actual Congress have been prevented from issuing their Ordinance for carrying it into execution, in consequence of a dispute about the place at which the future Congress shall meet.—It is probable that Philadelphia or New York will soon be agreed upon.—

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G° Washington to Thomas Johnson Esqr.
Mount Vernon August 31st 1788

[Washington Papers, Letter-book 6C p. 275. Transcript.]

I shall be obliged to you for informing me, what foundation there is for so much of the following extract of a letter from Doct^r Brooks at Fredericksburg to Doct^r Stuart of this County as relates to the officious light in which my conduct was viewed for having written the letter alluded to.

"Since then, I was informed by the Honourable James "Mercer, that his Brother Colo John Mercer, who was at "that time (July 10th) in this town, was furnished with docu- "ments to prove, that Genl Washington had wrote a letter "upon the present Constitution, to Governor Johnson of "Maryland, and that Governor Johnson was so much dis- "pleased with the officiousness of General Washington, as "to induce him to take an active part in bringing about the "amendments proposed by a Committee of the Convention "of Maryland."

If the letter which I wrote to you at Annapolis, while the Convention of your State was in Session, was so considered, I have only to regret that it ever escaped me. My motives were declared. Having such proofs as were satisfactory to me, that, the intention of the leaders of opposition was to effect an adjournment of your Convention (if a direct attack should be found unlikely to succeed) I conceived that a hint of it, thereof could not be displeasing to the supporters of the proposed Constitution—in which light as well from a letter I had received from you, as from universal report and belief I had placed you.—for I defy any anti-fœderalist to say, with truth, that I ever wrote to, or exchanged a word with him, on the subject of the New Constitution if (the latter) was not forced upon me, in a manner not to be avoided, nothing therefore could be more foreign from my design than to attempt to make proselytes, or to obtrude my opinions with a view to influence the judgement of any one. The first wish of my heart, from the beginning of this business, was that a dispassionate enquiry free from sinister and local considerations might under the existing and impending circumstances of this Country which could not be unknown to any man of observation & reflexion, take place & an impartial judgment formed of it.

I have no other object, Sir, for making this enquiry than mearly to be satisfied wheather the information (for information was all I had in view) was considered by you as an improper interference on my part—or that the document, and interpretation of this matter by Colo Mercer is the effect of one of those mistakes which is so very apt to fall into.

G° Washington to Doct^r Thos Ruston.

[Washington Papers, Letter-book 6C, p. 266. Transcript.]

Mount Vernon August 31st 1788

I have been regularly favored with your letter of the 17th instant, and am much obliged by your polite congratulations on the ratification of the Constitution by eleven States. Your remark seems to be well founded, that it is much more wonderful so many States should have adopted, than that two only should not as yet have accepted the government. It remains for us to hope the best; and I would fain persuade myself that the same Power, which hath hitherto kept us from Disunion and Anarchy, will not suffer us to be disappointed.

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G° Washington to Mrs A. Stockton

[Washington Papers, Letter-book 6C, p. 263. Transcript.]

Mount Vernon August 31st 1788

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The felicity you offer on the present prospect of our public affairs are highly acceptable to me, and I entreat you to receive a reciprocation from my part. I can never trace the concatenation of causes, which led to these events, without acknowledging the mystery and admiring the goodness of Providence. To that Superintending Power alone is our retraction from the brink of ruin to be attributed. A spirit of accomodation was happily infused into the leading characters of the Continent, and the minds of men were gradually prepared, by disappointment, for the reception of a good government. Nor would I rob the fairer sex of their share in the glory of a revolution so honorably to human nature, for, indeed, I think you Ladies are in the number of the best Patriots America can boast.

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[Washington Papers, Letter-book 6C, p. 278. Transcript.]

G Washington to The Honble Genl Sullivan President of the State Society of the Cincinnati in New Hampshire.

Mount Vernon September 1st 1788

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The prevalence of so good dispositions, from one extremity of the Continent to the other (with few exceptions) seems indeed to afford a subject of mutual felicitations, to all who delight in their Country's prosperity. But the idea, that my former gallant Associates in the field are now about to receive, in a good national government, some compensation for the toils and dangers which they experienced in the course of a long and perelous war, is particularly consolatory to me.

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[Jefferson Papers, series 1, vol. III, No. 177. Press copy. On September 1, Jefferson communicated the news of New York's adoption to Nicholas Van Staphorst and Dumas: Jefferson Papers, series 1, vol. III, Nos. 172, 173. Press copies.]

Th: Jefferson to Mr Cutting

Paris Sep. 4. 1788.

Letters from New York of July 26. mention that the question on the new Constitution was not then decided. but a postscript to one of them from Monsieur de Crevecoeur the French consul there, sais that just as the ship was getting under way they received news that the Constitution was accepted by a majority of five, that in consequence thereof the bells were then ringing &c. this news arrived here last Sunday, and I might have communicated it to you by next day's post, had I not taken it too much for granted that you know every thing in London sooner than we do here, and more especially in this case as the letters came to us viâ Amsterdam. finding by yours of Aug. 30. that you did not then know of it I concluded to amend my fault by writing it late rather than never. * * *

Nath[l] Chipman to A Hamilton Esq[r] New York– [Hamilton Papers, vol. II, p. 201.]

Newfane Sep[t] 6th 1788–

I have received by Cap[t] Ville your favour of the 22[d] of July—Since I wrote you I have had an opportunity of conversing with his Excellency the Governor and most of the council on the Subject of Vermont's accession to the confederacy.—they generally agree that the terms suggested are good—that it will be highly the interest of Vermont to accede—and that the present is likely to be a favorable crisis—but it is a question whether we ought to make any propositions to the present Congress—or prepare matters and wait the new arrangment—Vermont will not make a point of introducing any amendments—we shall not be the first to feel the inconveniences, if any should arise, ["if any should arise" stricken out] from the exercise of the new federal powers – – for myself, I readily conceive that direct taxation under the new System will be very inconsiderable during the continuance of peace; yet I find an exemption from the expences of the late war will have, with the Citizens of this State, a very powerful effect in producing unanimity on the subject of a union.—[mutilated] will not be [mutilated] State; but I hope this matter will in some way be compromised. If Sir you have any thing to suggest on this subject that may promote the public good, I should be very happy in the communication previous to the session of assembly in October next—the choice of representatives, which was on Tuesday last, has, as far as I have heard, succeeded favorably—

Mr Kelly who is so obliging as to take the charge of this letter, will be able to give you a more particular account than can be done in this way—as he has conversed largely with the Governor, Council and other persons of influence with whom he has great weight.

[Madison Papers, vol. IV, p. 55.]

Js. Madison Jr. to [James Madison Sr.]

N. York Sepr 6. 1788

* * * The Antifederalists are every where exerting themselves for an early Convention. The circular letter from this State, and the rejection of N. Carolina, give them great spirits. Virginia, I suppose from the temper of the present Legislature will co-operate in the plan.

Congress have not yet settled the place for the meeting of the new Gov^{t} It is most probable that the advocates for N. York who form at present the greater number, will prevail. In that case, altho' I think it a very unreasonable thing for the South^{n} & Western parts of the Union, the best face must be put on it.

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[Jefferson Papers, series 2, vol. XIII, No. 39.]

Wm Carmichael to His Exc^{y} Ths. Jefferson

S^{n} Ildefonso 9 Septr 1788

* * * I have no Official Letters from America, But by a packet from N Y This Court has rec^{d} dispatches from Mr Gardoqui to the 28th of July which announce the acceptation of the Constitution. Mr Gardoqui writes me on the 26th that N. Y would accede & he appears in high Spirts & the C^{t} de F. B seems much pleased to see our Affairs in so good a way—In a conversation which I had with him the last Week he expressed a hope, that we should now soon be able to Conclude a treaty & in a very candid manner gave me his Ideas upon the actual Situation of affairs in Europe & the Strong desire of his C. M$^{not\ only}_{\wedge}$ to prevent the flame of war from Spreading wider but to Contribute to the Restoration of Peace among the actual Belligerent Powers. * * *

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Tench Coxe to The hon. J. Maddison Jr Virginia Delegation New York [Madison Papers, vol. XVI, p. 16.]

Philad[a] Sept. 10th 1788

You were good enough to subscribe for a set of the letters of Publius at my request. I have rec[d] the Books, but as there was to be a remainder of subscription paid I shall be obliged to you, if in some future letter, you will note the amount. It has been affirmed to me with some confidence that a part of those papers were written by you. It would give me great pleasure before I read the work again to be informed, which they were, if it could be done without trouble. Your delicacy alone I presume, will stand in the way of indulging me in this request, as the great Object of the work has rec[d] your uniform, and open support; and you may be assured the circumstance will never escape from me.

We have been made uneasy here by an effort of our opposition, promoted by some of their friends in the adjacent states, to influence the elections for state & federal representatives, not only in Penns[a] but in those states also who elect about this Season of the Year. The paper enclosed will shew you how the matter has been conducted. It is probable it may be of use to republish it, as the facts are carefully stated, and it is addressed to the Union at large. From the temper of a part of the New York opposition it may have some effect there, and indeed there has been such a run upon Amendments, that a little from the friends of the Constitution may not be mal apropos. I mean the paper signed a fed[l] Centinel.

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The question about the place of first meeting is likely to issue I find in favor of New York. I confess I wish Philad[a] may not any longer procrastinate the issuing of the ordi-

nance. Tis much to be lamented that so much time has been spent, & that the most favorable & proper position has not been taken, but tis too serious a matter to hazard the Government by Delay for any such Consideration—

[The Papers of the Continental Congress, No 18, Letter-book B, p. 166. Transcript.]

[Charles Thomson to the Governors of the States]

Circular Office of Secretary of Congress Sept 13. 1788

[The Act is printed in Doc. Hist., II, 263.]

I have the honor to transmit to your Excellency herewith enclosed an Act of the United States in Congress assembled for putting into Operation the Constitution now ratified by the conventions of eleven States

[Letters to Washington, vol. LXXIII, p. 72.]

Henry Lee to General Washington

New York 13th Sept 88.

At length the new govt has received the last act necessary to its existence. This day Congress passed the requisite previous arrangements. The first wednesday in January the ratifying states are to appoint electors, on the first wednesday in February the president is to be chosen, & the first wednesday in March is the time, & this city the place for commencing proceedings.

Some delay has attended this business from a difference in opinion respecting the place of meeting, but this delay has not in the least affected the sooner or later operation of the constitution. The southern gentlemen did not accord in the place of temporary residence, from a discordance in sentiment, of its effect on the establishment of the permanent seat of govt Some considered this city, others a more southern position, as the most favorable theatre to

negotiate the determination of the ten-miles square. Many plausible & some cogent reasons are adducible in support of either opinion & time only can shew which is founded in propriety.

The solemnity of the moment, & its application to yourself, has fixed my mind in contemplations of a public & a personal nature and I feel an involuntary impulse which I cannot resist of communicating without reserve to you, some of the reflexions which the hour has produced. Solicitous for our common happiness as a people, & convicted as I continue to be, that our peace & prosperity depends on the proper improvement of the present period, my anxiety is extreme, that the new gov^{t} may have an auspicious beginning—To effect this & to perpetuate a nation formed under your auspices, it is certain that again you will be called forth—

The same principles of devotion to the good of mankind which has invariably governed your conduct, will no doubt, continue to rule your mind however opposite their consequences may be, to your repose & happiness. It may be wrong, but I cannot suppress in my wishes for national felicity, a due regard to your personal fame & content.

If the same success should attend your efforts on this important occasion, which has distinguished you hitherto, then to be sure you will have spent a life, which providence rarely if ever before gave to the lot of one man. It is my beleif it is my anxious hope that this will be the case, but all things are uncertain, & perhaps nothing more so than political events. The new gov^{t} tho about to commence its proceedings & rceived by a large majority of the people

with unprecedented unanimity & attachment, must encounter from the nature of human affairs many difficultys—these obstacles to its harmonious progress will receive additional weight & influence from the active & enterprizing characters who continue to inflame the passions & to systemize the measures of opposition—the circular letr from this state, seems to be the standard, to which the various minoritys will repair, & if they should succeed in bringing quickly into action the objects of that letr, new & serious difficutys must arise, which will cross & may destroy the govt in its infancy— Much will depend on the part which the assembly of Virginia may adopt in this business, & from the complexion of that body, little is to be hoped. They appeared to be generally opposed, & Mr Henry with many other conventional coadjutors, are members of the legislature— Madison will not be there, nor is there a friend to govt in the assembly of comparative ability— It would be fortunate if this gentleman could be introduced into that body, & I think it is practicable—Mr Gordon one of the orange members would readily vacate, to let him in, & the county would certainly elect him. In my letr of this date to Doctor Stuart, I have mentioned this suggestion.

It would certainly be unpleasant to you & obnoxious to all who feel for your just fame, to see you at the head of a tumbling system—It is a sacrifice on your part, unjustifiable in any point of view.— But on the other hand no alternative seems to be presented.

Without you the govt can have but little chance of success, & the people of that happiness which its prosperity must yield—In this dilemna, it seems wise that such previous measures be in time adopted, which most promise to

allay the fury of opposition, to defer amendments, till experience has shewn defects, & to ensure the appointments of able & honest men in the first Congress.

One of the best means to accomplish this seems to me, to bring into the assembly of Virg[a] the aid before mentioned.

Indeed I know of nothing so effective, for on the conduct of Virg[a], every thing will depend—Her example will be followed, & if she supports with promptitude the system recommended by this state, confusion & anarchy may be the substitutes of order & good gov[t]

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Js. Madison to Gen[l] Washington Mount Vernon

N. York Sep[r] 14. 1788

[Letters to Washington, vol. LXXIII, p. 76. Madison Papers, vol. IV, p. 56. Copy.]

The delay in providing for the commencement of the Government was terminated yesterday, by an acquiescence of the minor number in the persevering demands of the major. The time for chusing the electors is the first wednesday in Jan[y] and for chusing the President the first wednesday in Feb[y]. The meeting of the Gov[t] is to be the first wednesday in March, and in the City of New York. The times were adjusted to the meetings of the State Legislatures. The place was the result of the dilemma to which the opponents of N. York were reduced, of yielding to its advocates or strangling the Government in its birth. The necessity of yielding, and the impropriety of further delay, has for some time been obvious to me, but others did not view the matter in the same light. Maryland & Delaware were absolutely inflexible. It has indeed been too apparent that local & State Considerations have very improperly predominated in this question, and that

something more is aimed at than merely the first Session of the Gov^t at this place. Every circumstance has shewn that the policy is to keep Congress here till a permanent seat be chosen, and to obtain a permanent seat at farthest not beyond the Susquehannah. N. Jersey by its Legislature as well as its Delegation in Congress, has clearly discovered her view to be, a temporary appointment of N. York as affording the best chance of a permanent establishment at Trenton. I have been made so fully sensible of these views in the course of the business as well as of the impropriety of so excentric a position as N. York, that I would have finally concurred in any place more Southward to which the Eastern States w^d have acceded, and previous to the definitive vote, a motion was made tendering a blank for that purpose. At any place South of the Delaware, the Susquehannah at least would have been secured, and a hope given to the Potowmac. As the case is I conceive the Susquehannah to be the utmost to be hoped for, with no small danger of being stopped at the Delaware. Besides this consequence, the decision will I fear be regarded as at once a proof of the preponderancy of the Eastern strength, and of a disposition to make an unfair use of it. And it cannot but happen that the question will be entailed on the New Governm^t which will have enough of other causes of agitation in its Councils.

The meeting at Harrisburg is represented by its friends as having been conducted with much harmony & moderation. Its proceedings are said to be in the press, and will of course soon be before the public. I find that all the mischief, apprehended from Clinton's circular letter, in Virginia will be verified. The Antifederal^sts lay hold of it with eagerness as the harbinger of a second Convention; and as the Governor

espouses the project, it will certainly have the co-operation of our Assembly.

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Thomas Paine to [Thomas Jefferson]

[Jefferson Papers, series 2, vol. LXV, No. 163. Continuation of letter of September 9.]

London Broad Street Buildings N° 13 Sepr 15$^{th.}$—

This letter was entended to go by the last dispatches of M. Bartholemey but was too late—I have since seen a New-York paper of the 8th of August—in which there is a circular letter from the Convention of New-York signed by the President (Governor Clinton) to the several Legislatures which states, that altho' they had acceeded to the feoedral Constituon, from principles of regard to the Union, it was, in the opinion of a Majority of them, exceptionable in many points, and recommending that another convention be hereafter ["proposed" stricken out] assembled—agreeable to the provision made in the Constitution, for the purpose of reforming altering &c— Nothing particular, as to defect, is pointed at in the Circular letter, the expressions are general, and they disclaim all local Ideas—

A Motion was made in Congress that the New Congress meet at Baltimore which was carried 7 States to 6—the question was reconsidered the next day—and carried 7 to 6 for New York, in this state it stood when the vessel sailed

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The New York Packet is arrived this morning she sailed the eighth of Aug$^{s.}$ and brings nothing new – — The Majority in the Convention of N. York was but three—

The question for the meeting of Congress at Philadelphia was put and lost—

[Washington Papers, Letter-book 6C, p. 281. Transcript.]

G° Washington to Samuel Powell Esqr

Mount Vernon September 15th 1788

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The present Congress, by its great indecision in fixing on a place at which the New Congress is to convene, have hung the expectations, and patience of the Union on tenter hooks—and thereby (if further evidence had been necessary) given a fresh instance of the unfitness of a body so constituted to regulate with energy and precision the Affairs of such an extensive Empire. * * *

[Monroe Papers, vol. VII, p. 878.]

Ed. Carrington to Col. Monroe

New York Sep^t 15th 1788

I now do myself the pleasure to return the Pamphlet, agreably to your request, which you was so kind as to favor me with the perusal of. Your remarks upon the old federal system perfectly accord with my ideas of that ilconcerted Fabric, and fully display the necessity for a change.

I sincerely wish we could as well associate our opinions as to the new Constitution: it is, however, by that comparison of ideas which you have done me the honor to propose, that so desirable an object is to be obtained, and whatever may be the difference between us upon this important subject, I yet acknowledge myself under much obligation for the extensive field you have opened to my view, discovering the quicksands & Rocks to be guarded against, in directing the ship we have launched.

You have gone deeply into the subject, and presented many points which still engage my serious contemplation: upon one or two of your objections I will, however now

submit some thoughts which occur to me. The power of direct Taxation is the first in magnitude—this, my dear Friend, is, in my estimation the vital principle of the Government; take it away and the Govt must decline into, nearly, the same contemptible situation which has characterized the old one, or the responbility of the States must be secured by means such as you have hinted, and seem to rely upon, but which in my opinion, would be utterly inconsistent with every idea of freedom: in the one case we shall have gained nothing by the change in regard to Revenue, but the impost; in the other, Tyranny, which you so much dread will be established, or at least ["be" stricken out] introduced. You declare this power to be unnecessary, because, when the U. S possess considerable Revenues, & have at their command a Fleet & Army, with the absolute controul of Trade, you cannot but suppose that their constitutional demands & requisitions, will be complied with. As your reliance seems to be rested upon these circumstances of power, it is to be presumed you calculate upon the actual exercise of Military force, ["or that the States shall apprehend the exercise of it;" stricken out] or the apprehension of it by the States; in either case the compliance is to be effected under military influence: Now, my dr sir, would this entitle the Constitution to the republican character? to my conception of a free Govt the accomplishment of all its internal purposes by the ordinary operation of civil authorities, constitutionally created, is essential; and in the levies of money, in particular, this ought to be the case. Nor do I agree with those Gentlemen who think that the right of the U. S to Tax, should be consequent only upon a failure in any State to comply with a requisition, for this

would eventually lead to a necessity for the exercise of military force, if the money should be got at all.—place the business upon this footing, and the federal authority, in whatever shape it might be introduced, would come under the odious character of a minister of punishment—faith could not be placed in Citizens of the same State as agents—resort must be had to those of other States, not alike delinquent, & these could not be expected to effect any thing without military aid. But let the Gen! Gov! have, at once, the power of direct Taxation, such as the Constitution gives, and wise arrangements may be made for the collection, by agents who shall be respectable Citizens of the States in which they are respectively to act, say the sherifs or other collectors of the Counties who act ["at" stricken out] under the authority of the State—one man may be vested with both authorities ["and" stricken out]; the people will scarsely discern a difference between the one & the other power, and a ready obedience will be yielded. But, perhaps, the impost will be sufficient for all the purposes of the Union! why then give also a power to collect money by direct Taxation? should it prove that the impost be sufficient, there can arise no inconvenience from the other power being vested in the Fed! Gov! because it will never the exercised; But on the other hand should the impost prove deficient public ruin might ensue from a want of the command, constitutionally, of other resources,—it is therefore prudent to secure such a provision.—The most certain way to prevent oppressive strides of power, is to make a constitutional provision for every contingency.

Your difficulties upon the judiciary appear not to have been brought to any decided objection—you suggest, how-

ever, a dependance upon the State Courts for carrying into effect the greatest part of the Laws of the Gen[l] Gov[t]—you do not say whether they ought in these cases to derive their authority from the Gen[l] Gov[t], & therefore I can not combat your opinions upon this point. My idea, is that all the Courts, upon which the Federal Laws depend for their execution, ought to derive their authorities from, & be amenable to, the Federal Gov[t] and I think it would be wise to institute, the State courts, where they are well established, as the inferior Federal Courts;—here I pursue the principle which governed me as to the collection of Taxes, one that will diffuse the fed[l] authority in full efficiency, and at the same time, will scarsely occasion a visible change in the ["wonted" stricken out] accustomed police of the States. I perfectly agree with you that the federal Gov[t] which we are erecting, can only be successful by preserving a due distinction between the proper objects of it, & those of the State Gov[ts] and it appears to me that the institution of the State Courts, where they are well established, into the inferior fed[l] ones, will give us, at least a, flattering, prospect, that this discrimination will be kept—the Judges will feel an equal obligation & attachment to both ["authorities" stricken out], and will be impartial, as well as able, guardians of each—but should the. U. S. erect separate Courts the probability is, that bickerings will arise between the two jurisdictions: this, as you say is in the discretion of the Congress, & I trust, that that discretion, will be exercised properly.

Your remarks upon the Executive pretty fully accord with my ideas—I have always thought that to assign a Council for the guide of the Chief Magistrate, who is to act by

written Laws, is absurd, & that it, in fact, gives him a Shelter from the consequences of the most flagrant abuses.

My further remarks upon this subject will be reserved until I have the pleasure to see you in October, when I shall freely confer with you, and doubt not that many of the points upon which we now differ will be placed in differents lights in the ["eyes" minds stricken out] of each.

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[Jefferson Papers, series 2, vol. XIV, No. 97.]

John Brown Cutting to His Excellency Thomas Jefferson Esquire

London Sepr 16. 1788

Your respective favours of Sepr 4th and 9th are before me. For both but especially for the last accept my sincere thanks. Truth and certainty are always most grateful to the human mind. Your mode of conveying ["it" them stricken out] and the important objects concerning which you enlighten me render what is naturally pleasant particularly interesting and grateful. As my passage to South Carolina must be regulated by the intelligence I obtain concerning the probability of a speedy, or more retarded commencement of the operations of the general government, as well of the assembling of the legislature of the particular state to which I am about to resort, I think you may depend upon the fidelity of my correspondence for some weeks yet to come. Especially if the new Congress do not meet until March; and more especially if the circular letter from the Convention of New York shou'd prevail upon two thirds of the states—and among these Carolina—to suspend the functions of that

body until another general convention can be convoked to consider and decide upon amendments. Or even if the following alteration of the general constitution shou'd by any mean take place as insisted upon by New York namely— "That the judicial power of the United States, in cases in which a state may be a party, does not extend to authorise any suit by any person against a state"; I fear my proposed negotiation with the state of South Carolina wou'd be baffled, or rather so evidently promise to be abortive as not to be worth attempting.

The August Packet tho' momently expected is not yet arrivd here from New York. By the next post I hope to announce to you the accession of North Carolina which I [look "hope" stricken out] to receive by the packet—since it seems she was to sail three days later than the date of any of the papers I inclose. Among these papers you will observe a transcript of the conventional letter from New York, and certain other articles, which I have with some industry collected and committed to writing for your entertainment. The sources whence I derived most of those extracts were not to be purchased nor even purloyn'd. To M[r] Parker who will be in Paris when this arrives I have also inclosed an additional newspaper or two—which he will communicate Those transcripts and these newspapers taken collectively contain the most recent information of american affairs that can be furnish'd from England. Even if you have 'em already, or fresher intelligence, the bulk of my dispatch will at least evince["s" stricken out] the energy of my zeal to amuse you. * * *

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[ENCLOSURES.]

[Jefferson Papers, series 2, vol. XIV, No. 98.]

Extract of a letter from Poughkeepsie dated July 11th 1788.

"When the Convention met on thursday Mr Lansing came forward with the amendments, arranged in three classes— explanatory, conditional and recommendatory. The bill of rights is among those that are explanatory. The following are conditional. 1. That there shall be no standing army in time of peace, without the consent of two thirds of Congress: 2. That there shall be no direct taxes, nor excises on american manufactures. 3. That the militia shall not be ordered out of the state, except by the previous consent of the executive thereof; nor then for a longer time than six weeks, without the consent of the state Legislature; & 4thly That there shall be no interference in the elections, unless when a state shall neglect or refuse to provide for the same.

In reading the amendments, Mr Lansing observed, that they had not only been changed in form, but in substance. One of them has been changed indeed: it is Melancton Smith's first amendment, and about which there was several days debate: the original amendment was for having the house of representatives doubled in the first instance, & that it shou'd increase at the rate of one for every 20,000 till it got to 300. As it now stands, it is that there shall be a representative for every 30,000 till it get to 200; beyond which it may not go.

After the amendments were read, it was proposed by Mr Lansing that the Convention shou'd adjourn, and that a committee of both parties shou'd be informally appointed, who shou'd endeavour to make such an accomodation, and

so to arrange the amendments as to bring the business to a quick and friendly decision: accordingly the convention adjourned.

Mr Jay, Mr Duane, the Chief Justice, Judge Hobart, Judge Ryeress Judge Lefferts and Mr Hatfield, on the part of the Fœderalists; & Judge Yates, Mr Lansing, Mr M. Smith; Mr Tredwell, Mr Haring, Mr Jones and Mr G. Livingstone on the part of the antifœderalists, were the committee appointed conformably to Mr Lansings motion.

When the committee met Mr Jay declared that the word conditional shou'd be erased before there cou'd be any discussion on the merits of the amendment: this occasion'd an hours debate, and the antis determing not to give up that point, the committee was dissolved with out effecting any thing. In this committee Mr Jones & Mr Smith discovered dispositions somewhat moderated; but the others were quite violent".

Extract of another letter of the same date. (11th. July.)

This morning Mr Jay brought forward forward the grand question, by a resolution for adopting the constitution; he spoke forcibly and commanded great attention: The Chancellor also spoke with his usual energy and brilliancy. Our worthy Chief Justice was also on his legs. Mr Smith, Mr Lansing, and the Governor spoke against the resolution, and from what fell from them, they seem determin'd to support a conditional adoption: this the Fœderalists consider as a rejection under another name, and will protest against".

Extract of a letter from one of the Delegates from the County & City of New-York in the Convention at Poughkeepsie, dated July 23d 1788.

"I have not hitherto written to you, because my mind has been too much agitated, and I had nothing to communicate which I thought cou'd give you pleasure. The case is now alter'd, and affairs have taken a complexion of a most pleasing nature. A motion was this morning carried in the committee for striking out the conditional part of the proposed ratification, and merely inserting our confidence in the forbearance of Congress to exert certain powers until the proposed amendments shou'd receive a consideration. This motion was carried by 31 against 29.—The whole southern district (except Mr Tredwell) four of the Dutchess County members and Mr Williams from Washington voted in the affirmative. The Governor Judge Yates and Mr Lansing were in the minority. I now begin to flatter myself that all will go well, at least that we shall obtain the substance of what we are aiming at".

New York Aug. 9th 1788 Circular Letter from the Convention of the State of New York, to the Executives of the different States to be laid before their respective Legislatures

Sir

We the members of the Convention of this state have deliberately and maturely considered the Constitution proposed for the United States.

Several articles in it appear so exceptionable to a majority of us, that nothing but the fullest confidence of obtaining a revision of them by a general convention, and an invincible reluctance to seperate from our sister states, cou'd have prevail'd upon a sufficient number to ratify it, without stipulating for previous amendments.

We observe that amendments have been proposed, and are anxiously desired, by several of the states as well as by this,

and we think it of great importance, that effectual measures be immediately taken for calling a Convention, to meet at a period not far remote; for we are convinced, that the apprehensions and discontents which those articles occasion, cannot be removed or allayed, unless an act to provide for it be among the first that shall be passed by the new Congress.

As it is essential that an application for the purpose shou'd be made to them by two thirds of the states, we earnestly exhort & request the legislature of your state (or commonweath) to take the earliest opportunity of making it. We are persuaded, that a similar one will be made by our Legislature at their next session; and we ardently wish and desire, that the other states may concur in adopting and promoting the measure.

It cannot be necessary to observe that no government, however constructed, can operate well unless it possesses the confidence and good will of the great body of the people; and as we desire nothing more than that the amendments proposed by this or other states be submitted to the consideration and decision of a general Convention we flatter ourselves, that motives of mutual affection & conciliation will conspire with the obvious dictates of sound policy to induce even such of the states, as may be content with every article of the Constitution to gratify the reasonable desires of that numerous class of american citizens, who are anxious to obtain amendments of some of them.

Our amendments will manifest that none of them originate in local views, as they are such, as if acceded to, must equally affect every state in the Union.

Our attachment to our sister states, and the confidence we repose in them, cannot be more forcibly demonstrated, than

by acceding to a government, which many of us think very imperfect, and devolving the powers of determining whether that government shall be rendered perpetual in its present form, or alter'd agreably to our wishes, on a minority of the states with whom we unite.

We request the favour of your Excellency to lay this letter before the Legislature of your state (or Commonwealth) and we are persuaded that your regard for our national harmony and good government will induce you to promote a measure which we are unanimous in thinking very conducive to those interesting objects

We have the honor to be with the highest respect your Excellency's most obedient servants.

By the unanimous order of the Convention
George Clinton, President

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Newport Rhode Island July 31st 1788

The unconditional ratification of the fœderal constitution by New-York hath blasted the last hopes of the antifœderal Junto in this State as they find themselves reduced to this mortifying alternative.— "Adopt the Constitution, and you may yet retain your sovereignty; but if you reject it, your territory shall be partition'd among your neighbours".

"Upon receiving the interesting intelligence of the ratification of the new Constitution by New York, great demonstrations of Joy were manifested by our citizens. The bells ecchoed the joyful tidings, and the colours displayed the triumph over anarchy—no town on the Continent coud be more unanimous in their sentiments—none more unfeign'd

in their gratulations, as none had experienced in so great a degree the scourge of fraud and licentiousness".

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Richard Peters to Genl Washington

[Letters to Washington, vol. LXXIII, p. 79.]

Philad[a] Sept[r] 17. 1788

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Our Antifederalists have changed their Battery. They are now very federal. They want Amendments & they must get into the Seats of Government to bring them about—or what is better—to share the Loaves & Fishes—Their Harrisburg Convention have agreed to submit to & support the Government, & some of them, like the moderate Men & converted Tories formerly, now make up in Sound what they want in Patriotism. In short their Convention was a mere Election Jobb & no Harm is to be expected from it except they get into the Government which in the whole cannot be prevented. When they have got warm in their Seats they will, as it always happens in such Cases, find it their Interest to support ["[a]the" stricken out] Government in which they are Sharers tho' they may make a little Bustle ad captandum—

* * * We shall take up the federal Subject having recieved the Ordnance of Congress & on our Parts organize the Government. * * *

[Letters to Washington, vol. LXXIII, p. 83.]

W. Barton to His Excell^y Genl Washington.

Philadelphia, Septr 18th 1788.

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It has been under the impression of prejudices without doubt, that so much has been said and written, both against the Institution of the Cincinnati and our Fœderal Constitution; yet, Sir, I am persuaded that this very circumstance, instead of producing the effects intended by the violent and persevering opposers of both, has been a great mean of quieting the fears of many good Citizens, by giving others an opportunity of shewing how little foundation for jealousy really existed. With regard to the Cincinnati,—though I have not the honor of being a member of that Society, I have always viewed it as an innocent, well-meant institution, formed on principles of humanity and benevolence: And, as to the new Plan of our National Government, I frankly acknowlege that it is not, in my humble Opinion, wholly unexceptionable; but, notwithstanding this confession, my uniform sentiment has been, that it was the duty of every good citizen not only chearfully to acquiesce in, but to promote, its being carried into Operation. Had I ever lent even my feeble support to such as opposed the attainment of this great and desirable Object, by writing or otherwise, the reflection would give me pain— For, I have long been convinced that a more efficient Government than the old Confederation, was necessary to our existence, as an independent People,—a position which I have endeavoured to establish in two Publications, in Carey's Museum (for Jany 1787, page 13—and May 1788, page 442): And I had no doubt that the good sense of the American People would, in

due time, introduce such alterations in the new Constitution, as experience and sound reason might suggest the propriety of, and in such mode as is directed by the Constitution itself;— These, Sir, are my undisguised sentiments on this subject, and I have always avowed them. I anticipate, with pleasure, the happiness this Country will enjoy, under a virtuous administration of a good Government; and, tho' an humble Citizen, I am as anxious as any man to see it carried into effect. It is, therefore, with the most heart-felt satisfaction that I congratulate you, Sir, who have been so eminently instrumental in raising up this great Empire,— on the peaceable declension of that spirit of Jealousy, which threatened to mar our national Prosperity — We have been Witnesses, in this Country, to an almost total extinction of the violent Prejudices, which were formerly entertained against an American Episcopate; and it is highly probable, that a similar moderation and liberality to that, which has since taken place on that subject, supported by Patriotism, will soon supersede the unreasonable Discontents which have been harboured in the minds of many, against the Fœderal Constitution.

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Le Cte. de Moustier to Son Excellence, M^r le Gal Washington.

[Letters to Washington, vol. LXXIII, p. 80.]

A New york le 18. Septembre 1788.

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J'aurois été très aise de Vous feliciter de l'adoption d'un plan de Gouvernement, que Vous aviés fortement recomandé à Vos Concitoyens et dont le succès ne peut qu'interesser infiniment tous les amis sinceres des Etats unis.

[Jefferson Papers, series 1, vol. III, No. 187. Press copy.]

Th: Jefferson to Mr Short

Paris Sep. 20. 1788.

* * * the Convention of Virginia annexed to their ratification of the new Constitution a copy of the state Declaration of rights, not by way of Condition, but to announce their attachment to them. they added also propositions for specific alterations of the constitution. among these was one for rendering the President incapable of serving more than 8. years in any term of 16. New York has followed the example of Virginia, expressing the substance of her bill of rights (i. e. Virginia's) & proposing amendments; these last differ much from those of Virginia. but they concur as to the President, only proposing that he shall be incapable of being elected more than twice. but I own I should like better than either of these, what Luther Martin tells us was repeatedly voted & adhered to by the federal convention, & only altered about 12. days before their rising when some members had gone off, to wit, that he should be elected for 7. years & incapable for ever after. but New York has taken another step which gives uneasiness. she has written a circular letter to all the legislatures, asking their concurrence in an immediate Convention for making amendments. no news yet from N. Carolina. electors are to be chosen the 1st Wednesday in January, the President to be elected the 1st Wednesday in February, the new legislature to meet the 3^d^ week in March. the place is not yet decided on. Philadelphia was first proposed & had 6½ votes. the half vote was Delaware, one of whose members wanted to take a vote on Wilmington. then Baltimore was proposed & carried, and afterwards rescinded, so that the matter stood open as ever on the 10th of August: but it was allowed the

dispute lay only between N. York & Philadelphia, & rather thought in favor of the last. the R. island delegates had retired from Congress. * * * Congress had referred the decision as to the independance of Kentucké to the new government. Brown ascribes this to the jealousy of the Northern states, who want Vermont to be received at the same time in order to preserve a balance of interests in Congress. he was just setting out for Kentucké, disgusted, yet disposed to persuade to an acquiescence, tho' doubting they would immediately separate from the union. the principal obstacle to this, he thought, would be the Indian war.—the following is a quotation from a letter from Virginia dated July 12. 'P——n, tho' much impaired in health, & in every respect in the decline of life, shewed as much zeal to carry the new constn, as if he had been a young man: perhaps more than he discovered in the commencement of the late revolution in his opposition to Great Britain. W—e acted as chairman to the commee of the whole & of course took but little part in the debate: but was for the adoption relying on subsequent amendments. B—r said nothing, but was for it. the G——r exhibited a curious spectacle to view. having refused to sign the paper, every body supposed him against it. but he afterwards had written a letter; & having taken a part which might be called rather vehement, than active, he was constantly labouring to shew that his present conduct was consistent with that letter, & that letter with his refusal to sign. M—d—n took the principal share in the debate for it: in which, together with the aid I have already mentioned, he was somewhat assisted by I–nn–s, Lee, M——l, C——n & G. N——s. M–s–n, H—y & Gr—n were the principal

supporters of the opposition. the discussion, as might be expected where the parties were so nearly on a balance, was conducted generally with great order, propriety & respect of either party to the other.'

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[Letters to Washington, vol. LXXIII, p. 88.]

John Jay to His Ex^y^ Genl Washington.

New York 21 Sepr 1788

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Men in general are guided more by conveniences than by Principles. This Idea accompanies all my Reflections on the new Constitution, and induced me to remark to our late Convention at Poughkeepsie, that some of the most unpopular and strong Parts of it appeared to me to be the most unexceptionable. Government without Liberty is a Curse, but on the other Hand Liberty without Government is far from being a Blessing.

The opponents in this State to the Constitution decrease and grow temperate. Many of them seem to look forward to another Convention rather as a Measure that will justify their opposition, than produce all the Effects they pretended to expect from it. I wish that Measure may be adoptd with a good Grace, and without Delay or Hesitation. So many good Reasons can be assigned for postponing the Session of such a Convention for three or four Years, that I really believe the great Majority of its advocates would be satisfied with that Delay. After which I think we should not have much Danger to apprehend from it; especially if the new Governm^t^ should in the mean Time recommend itself to the People by the wisdom of its Proceedings, which I flatter myself will be the Case. The Division of the Powers of

Gov[t] into three Departments, is a great and valuable point gained; and will give the People the best opportunity of bringing the Question, whether they can govern themselves, to a Decision in their Favor—

J[s] Madison Jr. to M[r] Jefferson Paris

New York Sep[r] 21. 1788

[Madison Papers, vol. IV, p. 57.]

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The Circular letter from the New York Convention has [illegible words stricken out] rekindled an ardor among the opponents of the federal Constitution for an ["early" stricken out] immediate revision of it by another General Convention. You will find in one of the papers inclosed the result of the consultations in Pensylvania on that subject. M[r] Henry and his friends in Virginia enter with great zeal into the scheme. Governour Randolph also espouses it; but with a wish to prevent if possible danger to the article which extends the power of the Government to internal as well as external taxation. It is observable that the views of the Pennsylv[a] meeting, do not rhyme very well with those of the Southern advocates for a Convention; the objects most eagerly pursued by the latter being unnoticed in the Harrisburg proceedings. The effect of the Circular letter on other States is less known. I conclude that it will be the same every where, among those who opposed the Constitution, or contended for a conditional ratification of it. Whether an early Convention will be the result of this united effort, is more than can at this moment be foretold. The measure will certainly be industriously opposed in some parts of the Union, not only by those who wish for no alterations, but by others who would prefer the

other mode provided in the Constitution; as most expedient at present for introducing those supplemental safeguards to liberty ag^st^ which no objections can be raised; and who would moreover approve of a Convention for amending the frame of the Government itself, as soon as time shall have somewhat corrected the feverish state of the public mind, and trial have pointed its attention to the true defects of the system.

You will find also by one of the papers inclosed that the arrangements have been compleated for bringing the new Government into action. The dispute concerning the place of its meeting, was the principal cause of delay, the Eastern States with N. Jersey & S. Carolina being attached to N. York, and the others strenuous for a more central position. Philadelphia, Wilmington, Lancaster, & Baltimore were successively tendered without effect by the latter, before they finally yielded to the superiority of numbers in favor of this City. I am afraid the decision will give a great handle to the Southern Antifederalists who have inculcated a jealousy of this end of the Continent. It is to be regretted also as entailing this pernicious question on the New Cong^s^ who will have enough to do in adjusting the other delicate matters submitt["ed" written upon "ing"] to them. Another consideration of great weight with me is that the temporary residence here will probably end in a permanent one at Trenton, or at the farthest on the Susquehannah. A removal in the first instance beyond the Delaware would have removed the alternative to the Susquehannah and the Potowmac. The best chance of the latter depends on a delay of the permanent establishment for a few years, untill the Western & South Western population comes more into view. This

delay can not take place, if so excentric a place as N. York is to be the intermediate seat of business.

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[Washington Papers, Letter-book 6C, p. 289. Transcript.]

G° Washington to The Honble Henry Lee Esqr.

Mount Vernon September 22^d 88

Your letter of the 13th instant was of so friendly and confidential a complexion, as to merit my early attention and cordial acknowledgments. I am glad Congress have at last decided upon an Ordinance for carrying the new government into execution. In my mind, the place for the meeting of the new Congress was not an object of such very important consequence: but I greatly fear that the question entailed upon that body, respecting their permanent residence, will be pregnant with difficulty and danger. God grant that true patriotism and spirit of moderation may exclude a narrow locality & all ideas unfriendly to the Union, from every quarter.

Your observations on the solemnity of the crisis and its application to myself, bring before me subjects of the most momentious and interesting nature. In our endeavours to establish a new general government, the contest nationally considered, seems not to have been so much for glory, as existence. It was for a long time doubtful whether we were to survive as an independent Republic, or decline from our fœderal dignity into insignificant and wretched Fragments of Empire. The adoption of the Constitution so extensively, and with so liberal an acquiescence on the part of the Minorities in general, promised the former: untill, lately, the circular letter of New York carried, in my appre-

hension, an unfavorable, if not an insidious tendency to a contrary policy. I still hope for the best; but before you mentioned it, I could not help fearing it would serve as a Standard to which the disaffected might resort. It is now evidently the part of all honest men, who are friends to the new Constitution, to endeavour to give it a chance to disclose its merits and defects, by carrying it fairly into effect, in the first instance. For it is to be apprehended, that by an attempt, to obtain amendments before the experiment has been candidly made, "more is meant than meets the ear" that an intention is concealed, to accomplish slily, what could not have been done openly—to undo all that has been done. If the fact so exists, that a kind of combination is forming to stifle the government in embrio; it is a happy circumstance that the design has become suspected. Preparations should be the sure attendant upon forewarning. Probably, prudence, wisdom, and patriotism were never more essentially necessary than at the present moment: and so far as it can be done in an irreproachably direct manner, no effort ought to be left unassayed to procure the election of the best possible characters to the new Congress. On their harmony, deliberation and decision every thing will depend. I heartily wish Mr Madison was in our Assembly: as I think, with you, it is of unspeakable importance Virginia should set out in her fœderal measures under right auspicies.

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G° Washington to The Honble Ja^s Madison Esqr

Mount Vernon September 23^d 1788

[Washington Papers, Letter-book 6C, p. 296. Transcript.]

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Upon mature reflection, I think the reasons you offer in favor of Philadelphia as the place for the first meeting of Congress are conclusive: especially when the father agitation of the question respecting its permanent residence is taken into consideration. But I cannot, however, avoid being satisfied that the minority should have acquiesed in any place, rather than to have prevented the system from being carried into effect. The delay had already become the source of clamours and might have given advantages to the Antifœderalists. Their expedient will now probably be an attempt to procure the election of so many of their own junto under the new government, as, by the introduction of local and embarrassing disputes, to impede or frustrate its operation.

In the mean time it behoves all the advocates of the Constitution, forgetting partial and smaller considerations, to combine their exertions for collecting the wisdom and virtue of the Continent to one centre; in order that the Republic may avail itself of the opportunity for escaping from Anarchy, Divison, and the other great national calamities that impended. To be shipwrecked in sight of the port would be the severest of all possible aggravations to our Misery and I assure you I am under painful apprehensions from the single circumstance of Mr H. having the whole game to play in the Assembly of this State, and the effect it may have in others it should be counteracted, if possible.

[Washington Papers, Letter-book 6C, p. 295. Transcript.]

G.° Washington to Samuel Powell Esq.r

Mount Vernon Sept.er 23.d 1788

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I am glad Congress have at last, decided upon an ordinance for carrying the New government into execution—The patience of the Union was too long tried for a question of so temporary a nature.

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[Madison Papers, vol. XVI, p. 19.]

Tench Coxe to The hon. Ja.s Madison Jr Esq.r

Philad.a Sept. 26.th 1788—

I am favored with your last by post & am much obliged to you for the Newspapers, and your remarks concerning the Views of the opposition in several places.

I would not by any means wish a request of the circle of gentlemen, who wrote the papers under the Signature of Publius, which I think with you would be disagreeable and improper. I am to ask your pardon for the trouble I have given you on that Subject, but was led to it from hearing that M.r Jay had written the two first Numbers. I therefore presumed that there might be no impropriety in a confidential communication concerning the remainder. However I confess I think the secrecy both political & delicate, and am now only anxious that you should excuse the trouble I gave you.

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Enclosed you will find a bill now pending in our legislature for the election of Representatives, & Electors, and indeed all our state arrangements in the federal Affairs—except the Election of Senators, w.ch is fixt for Tuesday 30.th inst. The Candidates are—among the citizens M.r R.

Morris—and if they take two from hence Mr Bingham, but of the latter not much has been s^d^ since Mr Morris's name has been in Circulation—from the Country Gen^ls^ Irwin, Armstrong, Messrs Maclay, Pettit & Findlay. If the federal interest act in concert Morris & M^c^Clay will be the Men as they have the most votes among the friends of the Constitution. Genl Armstrongs friends are strenuous & apparently determined. Should the fed^l^ interest divide—tis impossible to say what will be the issue, but it must be in part unfavorable. The two last are decided for the resumption by the states of the power of direct taxation—and there^fore^ we must earnestly hope they may not succeed. If elected their efforts will accord with the protest of our Minority.

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Th: Jefferson to Mr Shippen

[Jefferson Papers, series 1, vol. III, No 191. Press copy.]

Paris Sep. 29. 1788.

* * * no news yet from North-Carolina: but in such a case no news is good news, as an unfavorable decision of the 12th state would have flown like an electrical shock through America & Europe. a letter from Govr Rutledge of Aug. 10. says nothing of N. Carolina: this silence is a proof that all was well. that Convention was to meet July 23. and not July 4. as we had been told.

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[Jefferson Papers, series 2, vol. XIV, No. 101.]

John Brown Cutting to His Excellency Thomas Jefferson Esquire

London, Tuesday Morning, Sep[r] 30 1788.

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North Carolina has refused to ratify the new constitution by a majority of one hundred votes—six only voting to receive it unconditionally. The report however subjoins that a delegate or delegates are appointed to negociate amendments with the new Congress—and upon condition that these are adopted—she will reunite with her sister states. The account of this unexpected event comes confirmed by different private letters from persons in Pennsylvania, Maryland & New York—two of which have been read to me. One by M[r] Smith dated 23[d] of Aug: another by M[r] Eddy—a day or two earlier. Neither of them mention any particulars of the debate—or the reasons—private or ostensible which are said to have influenced the Convention—no not even the date of their non-assent. The clearest notice of the affair I obtain from a young M[r] West—son of an episcopal clergyman of that name in Baltimore—who says he was on a visit with his father at Mount Vernon about the 10th of Aug: where he heard Col[o] Humphreys express his surprize at the decision of North Carolina—the certainty of which he knew by a private letter from North Carolina: an official account of the proceedings of her Convention not being arrived when M[r] West sailed on the 13th. From this gentleman and a D[r] Shofe who came passengers together, I learn what is above hinted concerning an appointment to negociate amendments &c &c. Upon the whole evidence I am inclined to believe the fact—altho' it does not come quite untinged with obscurity.

You may recollect perhaps some statements of mine in a former letter concerning the internal affairs of North Carolina—and likewise the co-ercive management of certain persons at one of the elections for conventional delegates. To these circumstances and to the interference of some able members of the late minority in Virginia—rather than to any holy political zeal for the liberties and welfare of their own peculiar country—do I venture to attribute this non-assentive vote of their convention.

Perhaps after all no serious detriment and some substantial benefit to the union may result from an event that being totally unlooked for in America (to some) seems not a little untoward. Certainly eleven states, (&) among those the three leading ones in point of population, light and opulence—are sufficient to cement the new union beyond the hazard of imbecility or dissolution. I take it for granted the organization of the fœderal government will not be retarded—either by the contumacy of Rhode-Island—or the hesitation of North Carolina. Nor will their voluntary absence from the first (ensuing) Congress deprive us of the first talents in our country. The absence of Virginia or of New York might have been regretted on such an account. But (even) if all the essential appointments to office were (now) made ere the two seceding states take their new rank possibly neither america in general nor these states in particular wou'd have just cause to complain. At the same time from the equity and moderation of the eleven fœderal states—and their truly republican desire to conciliate every citizen of the late thirteen united states—so far as it can be done with out trenching upon the wisdom of their fresh league—little doubt need be entertain'd that sensible and satisfac-

tory amendments will be speedily adopted and established. In what mode these amendments shall next be brought forward is now the chief remaining question to be determin'd? Altho I have not given this subject that maturity of consideration which a sound decision upon ["of" stricken out] it might exact, like ["most" stricken out] other young men and green politicians I find myself inclined to prefer the most expeditious method; I mean the most expeditious in which so important a business can be constitutionally dispatch'd. And this method seems to be pointed out in the three first sentences of the fifth article in the new confœderation. My objection to convoke a new general Convention for the purpose of considering amendments and legitimating them in the fœtus of our constitution, does not solely arise from a wish to expedite a measure so momentous, but springs also from an examination of the nature of the two modes. If another general convention is assembled its voice must in fact be ultimate and decisive before any of its new enactions can be put either to the test of experience or any genuine criterion of theoretic ["popular" stricken out] approbation. Besides if it shou'd be composed of the same men or nearly the same—will they not adhere to their former system. If it shou'd be composed of different men—or a majority of it consist of different men who can tell—whether the alterations they might introduce wou'd not be rejected by five state-conventions—or state-legislatures; or who can foresee whether if so disposed they might not set every principle of the system of Sepr 17th afloat and purposely recur again to seperate systems. But suppose they did not do so—still it might happen and probably wou'd—that the ratifiers—and the proposers of new amendments wou'd be one and the same specific ["class" stricken out] and individual citizens—which seems repug-

nant to the spirit of our best political opinions. Hence it is that I have said above that the voice of a new general convention wou'd in fact be ultimate; for in whatever mode their doings were ratified—the identical men might in another capacity ratify their own identical doings—hereby rendering a provision nugatory—which ought to be a check. Whereas if two thirds in both houses of the new Congress propose amendments to the constitution—and these are ratified by the legislatures of three-fourth of the several states—this check will be duly exercised—and the alterations receive a firmer validity (if one may so speak) from the double suffrages of two thirds of the fœderal and three fourths of the local legislatures. Methinks too it might not misbecome the new Congress early to manifest an anxiety to anticipate the wishes of many respectable citizens among the minorities on the late national question—whose propositions do not militate against the general principles of the fœderal plan—even if fewer than two thirds of the state legislatures shoud aim at alterations therein.

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John Brown Cutting to His Excellency Thomas Jefferson Esquire

[Jefferson Papers, series 2, vol. XIV, No. 104.]

London 6th October 1788

Truth, lovly truth, obliges me to correct the intelligence transmitted in my two last concerning the purport of the proceedings in North Carolina. It is true that the Convention of that State have not ratified the new fœderal constitution. But it is not true either that they have absolutely abstracted the state from the ["new" striken out] Union or mani-

fested a disposition to remain detached therefrom. Neither is it fact that the middle course they have attempted to hold has been taken by so large a majority against so small a minority—as I had reason to believe when I last wrote you.

The day before yesterday the New York packet arrived in fifteen days from Halifax. Having recently ["arrived" (come in) stricken out] from a rural excursion I knew it not when Mr Gardner's letter was writing at the other end of the town (early yesterday morning; I mean the introductory note I gave him to you): And even now I cannot furnish you with any ["direct" stricken out] accounts (which proceed directly) from North Carolina itself. But I believe you may rely upon the authenticity of the following extract, namely, "State of North Carolina, In Convention Aug 2. 1788." "Resolved, That a declaration of rights, asserting and securing from incroachment the great principles of civil and religious liberty, and the unalienable rights of the people, together with amendments to the most ambiguous and exceptionable parts of the said Constitution of Government, ought to be laid before Congress, or the Convention of the States that shall or may be called for the purpose of amending the said Constitution, for their consideration, previous to the ratification of the Constitution aforesaid, on the part of the state of North Carolina". Yeas 184. Nays 82. By another account from Virginia, dated Aug. 14th—and which I credit as genuine from its intrinsic probability, it appears, that on the opening of the Convention, a motion was made for the question to be put immediately, upon the supposition that every member had made up his mind on the subject and therefore an immediate determination wou'd save both expence and debate. This measure it is thought might have been

carried, had not one of the principal supporters of the new government in a most animated and excellent speech, proved the extreme indecorum and impropriety of such precepitance in a business so serious and important: whereupon the motion was withdrawn, and the Constitution being discussed clause by clause in a Committee of the whole Convention, the result was conformable to the principle of the above resolution. It seems to have been taken for granted by this body that Congress wou'd soon call a fresh general Convention to consider of the proposed amendments; and likewise that after deliberating hereon their decision wou'd again be submitted to a new Convention in each state; and that the state of North Carolina not having rejected the Constitution absolutely will not be precluded from calling a Convention again to adopt such an ultimatum shou'd they think proper so to do. Previous to their dissolution, two recommendations to the state legislature passed—the one to make the most speedy and effectual provision for the redemption of the paper money now in circulation—the other to lay an impost for the use of Congress, on goods imported into North Carolina, similar to that which shall be laid by the new Congress on goods imported into the adopting states. These two recommendations are to be transmitted with dispatch both to Congress & to the Executives of the several states.

Through the whole of the discussion of these subjects the Convention manifested every disposition to adhere to the Union and promote the general welfare: But many being previously and positively instructed by their constituents, & themselves perceiving or thinking they perceived, objections to the new constitution which their own vote might have a strong tendency to remove, they thought themselves justified

in thus postponing the ultimate decision of the important question, until it shou'd be re-considered by the several states, and such amendments made as might be found universally conciliating.

Most of the amendments proposed by the committee were the same that Virginia and other states recommend. Two only being local to North Carolina. And these two (which are not communicated to me) it is said do not militate with the great principles of the fœderal system.

This supplement to my late letter altho I have sketch'd it in great haste, contains the substance of all that is known here relevant to North Carolina.

P. S. Shou'd M[r] Parker remain in Paris when this scrawl reaches you an early communication of its contents to him will particularly oblige me.

[Letters to Washington, vol. LXXIII, p. 119.]

Th Johnson to General Washington

Frederick 10 October 1788.

I lately received your Letter of the 31st of August; scarce any Thing could have surprised me more than the Occasion of it for instead of being displeased I thought myself much obliged by the Letter you wrote me in the Time of our Convention—To strengthen the Friends of the new Constitution and expedite it's Adoption I shewed that and other Letters containing much the same Information and Sentim[ts] to some Gent. and mentioned them to others a strange Conduct had I been under the impressions suggested! nor do I recollect any Conduct of mine which can be called active to bring about any Amendments—I was not well pleased at the manner of our breaking up I thought it to our discredit

and should be better pleased with the Constitution with some Alterations but I am very far from wishing all that were proposed to take place

A Conversation between us at Shannadoah relative to your Letter and my answering it was broke off, I believe, by some Body's coming up as a Call to Breakfast—when you first mentioned it I did not understand certainly what Letter you referred to but the one received when I was at the Convention I answered the same Evening that it came to my Hands—As my Writing is pretty generally known and suspecting that Curiosity might peep into it to see how Things were going on I got M^r^ [illegible] who was sitting by to direct and contrive it: I was the more solicitous that it should have reached you safely as the Declaration you made in yours, and which I am satisfied came from the Heart gave me Resolution enough to hint at the Necessity we should be under for your farther Services We cannot Sir do without you and I and thousands more can explain to any Body but yourself why we cannot do without you.

My Acquaintance with Col^o^ Mercer is not of long standing or very close—he will never find me acting on a great public Question from such unworthy Motives nor I hope displeased with any Letter I may have the Honor to receive from you

J^s^ Madison Jr to Mr Jefferson

[Madison Papers, vol. IV, p. 59.]

New York Oc^r^ 1["7" written upon "6" erased]. 1788

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The States which have adopted the new Constitution are all proceeding to the arrangements for putting it into

action in March next. Pennsylv[a] alone has as yet actually appointed deputies; & that only for the Senate. My last mentioned that these were M[r] R. Morris & a M[r] M[c]Clay. How the other elections there & elsewhere will run is matter of uncertainty. * * *

[The enclosure is missing, but was probably The Ratifications of the New Fœderal Constitution, together with the Amendments, proposed by the Several States (Richmond, 1788). For a copy, Madison Papers, Prints, vol. I, p. 35.]

The little pamphlet herewith inclosed will give you a collective view of the alterations which have been proposed for the new Constitution. Various ["and nu" written upon "as they" erased] merous as they appear they certainly omit many of the true grounds of opposition. The articles relating to Treaties—to paper money, and to contracts, created more enemies than all the errors ^in the System positive & negative put together. It is true nevertheless that not a few, particularly in Virginia have ["been" stricken out] contended for the proposed alterations from the ^most honorable & patriotic motives; and that among the advocates for the Constitution, there are some who wish for further guards to ^public liberty & individual rights. As far ^as these may consist of a constitutional declaration of the most essential rights, it is probable they will be added; though there are ^many ["not a few" stricken out] who think such addition unnecessary, and not a few who think it misplaced in such a Constitution. There is scarce any point on which the party in opposition is so much divided as to its importance and its propriety. My own opinion has always been in favor of a bill of rights; provided it be so framed as not to imply powers not meant to be included in the enumeration. At the same time I have never thought the omission a material defect, nor been anxious to supply it ^even by subsequent amendment, for any other reason than that it is anxiously desired by others. I have favored it because I supposed it might be

of use, and if properly executed could not be of disservice. I have not viewed it in an important light 1. because I conceive that in a certain degree, though not in the extent argued by Mr Wilson, the rights in question are reserved by the manner in which the federal powers are granted. 2 because there is great reason to fear that a positive declaration of some of the most essential rights could not be obtained in the requisite latitude. I am sure that the rights of conscience in particular, if submitted to public definition would be narrowed much more than they are likely ever to be by an assumed power. One of the objections in New England was that the Constitution by prohibiting religious tests opened a door for Jews Turks & infidels. 3. because the limited powers of the federal Government and the jealousy of the ["State" stricken out] subordinate Governments, afford a security which ["the" stricken out] has not existed in the case of the State Governments, and exists in no other. 4. because experience proves th["e" written upon "at" erased] inefficacy of a bill of rights on those occasions when its controul is most needed. Repeated violations of these parchment barriers have been committed by overbearing majorities in every State. In Virginia I have seen the bill of rights violated in every instance where it has been opposed to a popular current. Notwithstanding the explicit provision contained in that instrument for the rights of conscience it is well known that a religious establishment wd have taken place in that State, if the legislative majority had found as they expected, a majority of the people in favor of the measure; and I am persuaded that if a majority of the people ["had happened to be of one sect" stricken out] were now of one sect, the measure would still take place and on narrower

ground than was then proposed, notwithstanding the additional obstacle which the law has since created. Wherever the real power in a Government lies, there is the danger of oppression. In our Governments the real power lies in the majority of the Community, and the invasion of private rights is chiefly to be apprehended, not from acts of Government contrary to the sense of its constituents, but from acts in which the Government is the mere instrument of the major number of the constituents. This is a truth of great importance, but not yet sufficiently attended to: and is probably more strongly impressed on my mind by facts, and reflections suggested by them, than on yours which has contemplated abuses of power issuing from a very different quarter. Wherever there is an interest and power to do wrong, wrong will generally be done, and not less readily by a powerful & interested party than by a powerful and interested prince. The difference, so far as it relates to the superiority of republics over monarchies, lies in the less degree of probability that interest may prompt abuses of power in the former, than in the latter; and in the security in the former agᵉᵗ an oppression of more than the smaller part of the Society, whereas in the former it may be extended in a manner to the whole. The difference so far as it relates to the point in question—the efficacy of a bill of rights in controuling ["lies in this, that" stricken out] abuses of power—lies in this, that in a monarchy the latent force of the nation is superior to that of the sovereign, and a solemn charter of popular rights, must have a great effect, as a standard for trying the validity of public acts, and a signal for rousing & uniting the superior force of the com-

munity; whereas in a popular government, the political and physical power may be considered as vested in the same hands, that is in a majority of the people, and consequently the tyrannical will of the sovereign is not be controuled by the dread of an appeal to any other force within the community. What use then it may be asked can a bill of rights serve in popular Governments? I answer the two following which though less essential than in other governments, sufficiently recommend the precaution. 1. The political truths declared in that solemn manner acquire by degrees the character of fundamental maxims of free government, and as they become incorporated with the national sentiment, ["will end in" stricken out] counteract the impulses of interest and passion. 2. Altho' it be generally true as above stated that the danger of oppression lies in the interested majorities of the people rather than in usurped acts of the Government, yet there may be occasions on which the evil may spring from the latter source; and on such, a bill of rights will be a good ground for an appeal to the sense of the community. Perhaps too there may be a certain degree of danger, that a succession of artful and ambitious rulers, may by gradual & well-timed advances, finally erect an independent government on the subversion of liberty. Should this danger exist at all, it is prudent to guard agst it, especially when the precaution can do no injury. At the same time I must own that I see no tendency in our governments to danger on that side. It has been remarked that there is a tendency in all governments to an augmentation of power at the expence of liberty. But the remark as usually understood does not appear to me well founded.

Power when it has attained a certain degree of energy and independence goes on generally to farther degrees. But when below that degree, the direct tendency is to further degrees of relaxation, until the abuses of liberty beget a sudden transition to an undue degree of power. With this explanation the remark may be true; and in the latter sense only, is it in my opinion applicable to the governments in America. It is a melancholy reflection that liberty should be equally exposed to danger whether the Government have too much or too little power; and that the line which divides these extremes should be so inaccurately defined by experience.

Supposing a bill of rights to be proper the articles which ought to compose it, admit of much discussion. I am inclined to think that absolute restrictions in cases that are doubtful, or where emergencies may ["not consist with" stricken out] overrule them, ought to be avoided. The restrictions however strongly marked on paper will never be regarded when opposed to the decided sense of the public; and after repeated violations in extraordinary cases, they will lose even their ordinary efficacy. Should a Rebellion or insurrection alarm the people as well as the Government, and a suspension of the Hab. corp. be dictated by the alarm, no written prohibitions on earth would prevent the measure. Should an army in time of peace be gradually established in our neighbourhood by Brit[n] or Spain, declarations on paper would have as little effect in preventing a standing force for the public safety. The best security ag[st] these evils is to remove the pretext for them. With regard regard to Monopolies, they are justly classed among the greatest nusances in government|"s which establish them." stricken out].

But is it clear that as encouragements to literary works and ingenious discoveries, they are not too valuable to be wholly renounced? Would it not suffice to require in all cases a reserved right to the public to abolish the privilege at a price to be specified in the grant of it? Is there not also infinitely less danger of this abuse in our governments, than in most others? Monopolies are sacrifices of the many to the few. Where the power is in the few it is natural for them to sacrifice the many to their own partialities and corruptions. Where the power, as with us, is in the many not in the few the danger can not be very great that the few will be thus favored. It is much more to be dreaded that the few will be unnecessarily sacrificed to the many.

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Ed. Carrington to [James Madison] [Madison Papers vol. XVI, p. 22.]

Fredericksburg Octo. 19. 1788

Having travelled leisurely I arrived here last ev'ning and shall proceed tomorrow morning for Richmond.

I left Mount Vernon on friday: during my stay there I had much conversation with the General upon the probable politics of the Assembly with respect to the Constitution—He is fully persuaded that antifederalism will be the actuating principle, and that great circumspection is necessary to prevent very mischievous effects from a co-operation in the insidious proposition of N. York. He is particularly alarmed from a prospect of an election for the Senate entirely antifederal. it is said in this part of the State, that Mr Henry & Mr R. H. Lee are to be pushed. I believe it is founded only in conjecture, but the Genl is apprehensive it may

prove true; ["and" stricken out] that to exclude the former will be impossible; and that the latter, being supported, by his influence, will also ["succeed" stricken out] get in, unless a federalist very well established in the confidence of the people can be opposed. He is decided in his wishes that you may be brought forward upon this occasion. I told him "that your views were to offer your services to the public in the Legislature in that branch which would be most agreable to the public, but that I had reason to believe you had a preference for the House of representatives." Upon this he observed that in addition to the considerations first suggested, your service in the Senate will be of more importance than in the other House, as there will be much depending on that branch unconnected with the other. some other observations were made to this purpose, and the issue was his decided opinion that you ought be proposed for the Senate. Upon conversing with some other gentlemen I find you are brought into contemplation pretty generally as to this object; I shall let the idea take its fairest course so as to be placed at last as you may ultimately direct. in the mean time I beg you to be full and confidential in your communications to me. I will write you immediately upon my arrival, and shall constantly keep you informed of the dispositions of the House in all points.

[Jefferson Papers, series 2, vol. XIV, No. 70.]

St Jno de Crevecœur to His Excellency Thos Jefferson Esqr

New York Octr 20th. 1788

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After a long & melancholy interval, there are at last well-grounded hopes, that the new Constitution will take place

& bind every part of this Continent into a firm & solid political compact; I shall greatly rejoice to see this auspicious event; The murmurs of partial discontent, cloak'd under what is called here antifederalism, seems now greatly to abate; there remains but one wish, which is, that those country partys may not preponderate in the choice of federal Senators & Delegates; if a majority of federalists can be obtained in those two bodies, every thing will go smoothly on. Their first Session which is to begin in March, will put the finishing hand to the great organisation: but an amazing task when one considers the extent of all the departments. What a cool & exploring sagacity will be wanted in the discussion & acceptation of those numberless amendments, which a few of the States insist upon, in order to please every body, & yet to discriminate the useful from the needless &c[a] In contemplating this great event, I see with pleasure the happy & immediate consequences which will result to this country from this atchievement of reason, for hitherto no other weapon has been made use of; if the natural order of causes & effects is not interrupted by untoward circumstances, by those fatal accidents which are so apt to start up, the transient evils which this country labors under, will gradually disappear, to lead the people to gradual & substantial happiness. Experience will prevent & correct past errors; the inhabitants of this Country will awake from their delusive dreams of credit, of unlimitted trade, from those motley expedients which have been so often made use of by several of the States, in which dignity, national honor, justice & law have been perverted; the destructive jealousy, the fatal influence of local preposessions, will be partly extinguished; one great national prevailing sentiment will operate throughout the whole. Never

was so great a change in the opinion of the best people, as has happened these five years; almost every body feels the necessity of coercive laws, Government, Union, Industry & labor. I hope the small differences entertained by some people about the mode of regeneration, will no longer be a barrier; Such will be the foundations of America's future peace, opulence & power. The exports of this country have singularly increased within these two years, * * *

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[Madison Papers, vol. IV, p. 60.]

J^s^ Madison Jr. to [Edmund Pendleton]

N. York Octr 20. 1788

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I am glad to find you concurring in the requisite expedients for preventing ["an" stricken out] antifederal elections, and a premature Convention. The circular letter from this State has united and animated the efforts ["on" written upon "of" erased] the adverse side with respect to both these points. An early Convention threatens discord and mischief. It will be composed of the most heterogenious characters—will be actuated by the party spirit ["which" stricken out] reigning among their constituents,—will comprehend men having insidious designs ag^st^ the Union—and can scarcely therefore terminate in harmony or the public good. Let the enemies to the System wait untill some experience shall have taken place, and the business will be conducted with more light as well as with less heat. In the mean time the other mode of amendments may ["supply" stricken out] be employed to quiet the fears of many by supplying those further guards for private rights which can

do no harm to the system in the judgment even of its most partial friends, and will even be approved by others who have steadily supported it.

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J[s] Madison Jr to [George Washington]

N. York Oc[r] 21. 88.

[Letters to Washington, vol. LXXIII, p. 128. Madison Papers, vol. IV, p. 61. Copy.]

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It gives me much pleasure to find that both the opposition at first and finally the accession to the vote fixing N. York for the first meeting of the new Congress has your approbation. My fears that the measure would be made a handle of by the opposition are confirmed in some degree by my late information from Virg[a]. M[r] Pendleton the Chancellor tells me he has already met taunts from that quarter on this specimen of Eastern equity & impartiality. Whether much noise will made will depend on the policy which M[r] Henry may find it convenient to adopt. As N. York is at the head of his party, he may be induced by that circumstance not to make irritating reflections; though the fact is that the party in this which is with him are supposed to be indifferent & even secretly averse to the residence of Congress here. This however may not be known to him.

Francis Corbin to [James Madison]

[Madison Papers, vol. XVI, p. 23.]

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A proposition will be brought forward in the assembly for a ["New" stricken out] Second Convention of the States—and I fear it will be carried—altho' I have not yet been able to ascertain the Complexion of the House—this being but the 2[d] Day of our meeting—This proposition it is said will be

introduced not by Henry—but–(mirabile dictu!) by our friend Randolph—He will injure his political Reputation by his doublings and turnings—He is too Machiavelian and not Machiavelian Enough— I wish, I sincerely wish that he could be advised and would take advice—but this, I fear, is out of the question—We Virginians are too much accustomed to Solitude and Slavery—too much puff'd up with our own foolish Pride and Vanity ever to Entertain any other Idea than that we alone are wise and all the rest of the World Fools. * * *

[Madison Papers, vol. XVI, p. 24.]

Ed. Carrington to The Honble Mr Madison

Richmond Octo. 22. 1788

Yesterday we had a full House. I am apprehensive from the complection of the Body that my predictions in my former letter, as to the dispositions of a majority of the members, will be verified—nothing of any kind has however yet been proposed, and therefore I am enabled to speak only from conjecture as drawn from a view of Characters. I am persuaded that an attempt will seriously be made for getting two Antifederalists for Senators. the men are not yet fixed upon certainly who are to be brought forward—R. H. L. will be one and Henry will be the other if he can be prevailed upon to serve—of this However there is some doubt at present. I am convinced that it will be in vain to try any Federalist but yourself, & ["I" stricken out] am decidedly of opinion that you ought to be put in nomination. You are already brought generally into contemplation, which leaves it unnecessary for me to say any thing concerning your election—in this

state it shall remain until future events shall enable me to judge more certainly as to the issue—you may rely upon being regularly informed of the progress of this and other things from post to post.

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Mr Henry keeps himself close—Mr Harrison & Mr Grayson discover considerable malignancy against the Govt The Governor will come into the Assembly, and is decidedly for a convention.

Ed. Carrington to The Honble Mr Madison [Madison Papers, vol. XVI, p. 26.]

Richmond Octo 24. 1788

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Since mine of the 22d I have endeavoured to get into the views of the leaders of the opposition,—they are wicked with regard to the Constitution—every attempt will be made to enthral it, & render it odious to the people—what think you of an Act restricting Judiciary, & other Officers of the State, from exercising duties of the same nature, under the Federal Govt?—this is in contemplation, & thus, it is intended, that the multiplication of Officers amongst the people, which has been predicted shall be introduced.—Mr Beckly says that the majority of Ante's in the House is about 15 whether this is accurate I cannot say as yet, but I am inclined to think there is certainly a majority. No one measure has yet been brought forward—next monday is assigned for the House to go into Committee upon the state of the Commonwealth, when I suppose propositions of an antifederal nature will be brought on.

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[Franklin Papers, vol. VIII, p. 1947. Press copy.]

B Franklin to Duc de Rochefoucauld

Philad[a]

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Our publick Affairs begin to wear a more quiet Aspect. The Disputes about the Faults of the new Constitution are subsided. The first Congress will probably mend the principal ones, & future Congresses the rest. That which you mention did not pass unnoticed in the Convention. Many, if I remember right, were for making the President incapable of being chosen after the first four Years: but a Majority were for leaving the Electors free to chuse whom they pleased; and it was alledged that such Incapability might tend to make the President less attentive to the Duties of his Office, and to the Interests of the People, than he would be if a second Choice depended on their good Opinion of them. We are making Experiments in Politicks; what Knowledge we shall gain by them will be more certain; tho' perhaps we may hazard too much in that Mode of acquiring it.—

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[Washington Papers, Letter-book 6C, p. 322. Transcript.]

G[o] Washington to The Hon[ble] Ben[a] Lincoln.

Mount Vernon October 26th 1788

I have been lately favored with the receipt of your letter of the 24th & 30th of September, with their enclosure, and thank you sincerely for your free and friendly communications.

As the period is now rapidly approaching which must decide the fate of the new Constitution, as to the manner of its being carried into execution and probably as to its usefulness, it is not wonderful that we should all feel an unusual degree of anxiety on the occasion. I must acknowl-

edge my fears have been greatly alarmed, but still I am not without hopes. From the good beginnig that has been made in Pennyslvania, a State from which much was to be feared, I cannot help foreboding well of the others. That is to say, I flatter myself a majority of them will appoint fœderal members to the several branches of the new government. I hardly should think that Massachusetts, Connecticut, New Jersey, Delaware, Maryland, South Carolina and Georgia, would be for attempting premature amendments. Some of the rest may, also, in all probability be apprehensive of throwing our affairs into confusion, by such ill-timed expedients. There will however, be no room for the advocates of the Constitution to relax in their exertions; for if they should be lulled into security, appointments of Antefœderal men may probably take place; and the consequences, which you so justly dred[a], be realised. Our Assembly is now in session; it is represented to be rather antifœderal, but we have heard nothing of its doings. M[r] Patrick Henry, R. H. Lee and Madison are talked of for the Senate. Perhaps as much opposition, or, in other words, as great in effort for early amendments, is to be apprehended from this State, as from any but New York. The constant report is, that North Carolia[n] will soon accede to the new Union. A new Assembly is just elected in Maryland, in which it is asserted the number of Fœderalists greatly predominates: and that being the case, we may look for favorable appointments, in spite of the rancour and activity of a few discontented, and I may say apparently unprincipled, men.

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[Madison Papers, vol. XVI, p. 28.]

J Dawson to [James Madison]

Rich. Monday. Oc[r] 27. 1788.

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Nothing has yet been said respecting the organization of the New Goverment— I expect it will be brought forwd to day, and that the Act for that purpose will be accompanid with instructions for another general Convention agreably to the plan propos'd by the President of the N. York convention—

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[Letters to Washington, vol. LXXIII, p. 142.]

Jon[a] Trumbull to George Washington Esq[r]

Lebanon 28th October 1788—

Nothing worthy of your notice having fallen in my Way to communicate, since the receipt of your very esteemed favor of the 20th July, I have forebore to trouble you with my acknowlegments therefor until this time.——I can now inform——That the Gen[l] Assembly of this State has lately been in session for a few Days.—After passing some resolves for organizing the Congress under the new Constitution, & doing but little other business they were adjourned to Jan[y]—the time for appointing Electors.—this appointment the Assembly have retained in their own power—think[g] it more likely to be exercised with Judgment & Discretion by the legislature, than it would probably be, was it to be entrusted to the people at large.— Our Senators are The Hon[o] W[m] Sam[l] Johnson & Oliver Elsworth Esq[rs] two very worth & respectable Members— The Representatives are to be chosen by the people before Jan[y] next, in a mode very similar to that by which our Assistants & Delegates to Congress have been wont to be elected.—

The circular Letter from the Convention of the State of N York, being among the Letters which the Gov[r] laid before the Assembly—had of course a reading among the other public communications—this was all that passed respecting it—for—altho we had in our Assembly the Champion of our Antis, with some of his principal Aides, yet no one had hardiness enough to call up the consideration of that Letter, or to mention one word of its subject—thus passed, in silent review, that formidable communication.—

Excepting a few—very few discordant Souls, whose unharmonious principles will never suffer them to act in general concert—we continue very unanimous in sentiment & salutary measures in this State;—and are progressing with much cheerfulness & great good humour to the commencement of the new Constitution.— * * *

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Charles Lee to Gen[l] Washington at Mount Vernon

Richmond 29th October 1788

[Letters to Washington, vol. LXXIV, p. 30.]

For a few days past the Assembly has been engaged upon the subject of the federal constitution: The house of delegates in committee has come to several resolutions with respect to putting it into operation. One of them distributes the commonwealth into ten districts each of which is to choose a representative in Congress, and another appoints that there shall be twelve districts each of which is to choose an Elector of the President, and every free man is at this election to have a vote. These matters were introduced by M[r] Corbin who seems to me not to have the confidence even of those who are friends

to the fair trial of the new government and as they have made but small progress, I cannot tell what will become of them. For Mr Henry today took occasion to declare that he should oppose every measure tending to the organization of the government unless accompanied with measures for the amendment of the Constitution for which purpose he proposes that another General Convention of deputies from the different states shall be held as soon as practicable. He offered to the Committee of the whole house several resolutions to be agreed to upon this point, one of them that the Legislature of Virginia should apply to the new Congress expressive of the desire of this state that another General Convention be immediately held to amend the constitution— The language of this resolution contains a direct and indecent censure on all those who have befriended the new constitution holding them forth as the betrayers of the dearest rights of the people—Applying to the constitution these words are used "whereby the most precious rights of the people if not cancelled are rendered insecure". With some difficulty and after much entreaty Mr Henry conceded (I use his expression) to suffer the resolution to lie on the table for consideration till tomorrow. Mr Corbin who spoke several times but never against the resolution concluded with saying that the resolution as proposed was unobjectionable and Zach. Johnson was the only member who declared his disapprobation in positive terms. If Mr Henry pleases he will carry the resolution in its present terms, than which none in my opion can be more exceptionable or inflamatory, though as he is sometimes kind and condescending, he may perhaps be induced to alter it. The other resolution proposed that a committee should be appointed, to answer

the circular letter of New York and in conformity with the object of that letter, to address the assemblies of the other states.

I am told Mr Henry has publickly said that no person who wishes the constitution to be amended should vote for Mr Madison to be in the senate, and there is much reason to fear he will not be elected. Col R. H. Lee is considered as certain—and Col Grayson is expected to be the choice for the Senate.

* * * I have been much fatigued with the business of the court, and have been much chagrined with the conduct of the federalists in the assembly, who seem in general to stand in fear of their opponents.

J^s Madison Jr to G. L. Turberville Eq^r

[Madison Papers, vol. IV, p. 66.]

N. York Novr 2. 1788.

Copy in substance of a letter to G. L. Turberville Eq^r

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You wish to know my sentiments on the project of another general Convention as suggested by New York. I shall give them to you with great frankness, though I am aware they may not coincide with those in fashion at Richmond or even with your own. I am not of the number if there be any such, who think the Constitution, lately adopted, a faultless work. On the contrary there are amendments wch I wished it to have received before it issued from the place in which it was formed. These amendments I still think ought to be made according to the apparent sense of America; and some of them at least I presume will be made. There are others, concerning which doubts are entertained by many, and which have both

advocates and opponents on each side of the main question. These I think ought to receive the light of actual experiment, before it would be prudent to admit them into the Constitution. With respect to the first class, the only question ["with" stricken out] is which of the two modes provided be most eligible for the discussion and adoption of them. The objections ag^st^ a Convention which give a preference to the other mode in my judgment are the following. 1. It will add to the difference among the States on the merits, ["a difference" stricken out] another and an unnecessary difference concerning the mode. There are amendments which in themselves will probably be agreed to by all the States, and pretty certainly by the requisite proportion of them. If they be contended for in the mode of a Convention, there are unquestionably a number of States who will be so averse and apprehensive as to the mode, that they will reject the merits rather than agree to the mode. A convention therefore does not appear to be the most convenient or probable channel for getting to the object. 2. A convention cannot be called without the unanimous consent of the parties who are to be bound by it, if first principles are to be recurred to; or without the previous application of $\frac{2}{3}$ of the State legislatures, if the forms of the Constitution are to be pursued. The difficulties in either of these cases must evidently be much greater than will attend the origination of amendments in Congress, which may be done at the instance of a single State Legislature, or even without a single instruction on the subject. 3. If a General Convention were to take place ["for" written ",it"] the avowed and sole purpose of of revising the Constitution, it would naturally consider itself as having a greater latitude than the Congress

appointed to administer and support as well as to amend the system; it would consequently give greater agitation to the public mind; an election into it would be courted by the most violent partizans [“characters” stricken out] on both sides; it w^d probably consist of the most heterogeneous characters; would be the very focus of that flame which has already too much heated men of all parties; would no doubt contain individuals of insidious views, who under the mask of seeking alterations popular in some parts but inadmissible in other parts of the Union [“might” written upon “may”] have a dangerous opportunity of sapping the very foundations of the fabric. Under all these circumstances it seems scarcely to be presumeable that the deliberations of the body could be conducted in harmony, or terminate in the general good. Having witnessed the difficulties and dangers experienced by the first Convention which assembled under every propitious circumstance, I should tremble for the result of a second, meeting in the present temper of America, and under all the disadvantages I have mentioned. 4. It is not unworthy of consideration that the prospect of a second Convention would be viewed by all Europe as a dark and threatening Cloud hanging over the Constitution just established, and perhaps over the Union itself; and w^d therefore suspend at least the advantages this great event has promised us on that side. It is a well known fact that this event has filled that quarter of the globe with equal wonder and veneration, that [“it” stricken out. “its” written upon “is”] influence is already secretly but powerfully working in favor of liberty in France, and it is fairly to be inferred that the final event there may be materially affected by the prospect of things here. We are not sufficiently sensible of the

importance of the example which this Country may give to the world: nor sufficiently attentive to the advantages we may reap from the late reform, if we avoid bring^{g} it into danger. The last loan in Holland and that alone, saved the U. S. from Bankruptcy in Europe; and that loan was obtained from a belief that the Constitution then depending w^{d} be certainly speedily, quietly, and finally established, & by that means put America into a permanent capacity to discharge with honor & punctuality all her engagements.

[Hamilton Papers, vol. XXII, p. 36.]

Theodore Sedgwick to The Hon Mr Hamilton.

New York.

Boston 2. Novr 1788

In my last hasty letter, I engaged to write you soon after my arrival in this town.—various questions will be agitated in the legislature (of considerable magnitude) which respect the orginization of the government. There is a party of federalists, who are of opinion that the electors should [mutilated] by the people, and ["that" stricken out] the re[mutilated] not in districts but at large. These [mutilated] be joined by all the antis probably. I yet hope they will not succeed. We yesterday committed to a committee of both houses the circular letter from your convention. The event is uncertain, ["as" written upon "but" erased] a considerable number of federalists have been brought over to the amendment system, the prospect is notwithstanding that the real friends of the constitution will prevail. every thing depends upon it; and the exertion will be proportioned to the magnitude of the object.—["Should" erased]

Should the electors be chosen by the Legislature, Mr Adams will probably combine all the votes of Massachusetts. I am very certain that the suggestion that he is unfriendly to General Washington is entirely unfounded. Mr Hancock has been very explicit in patronising the doctrine [mutilated] Amendment, the other gentleman is for postponing the conduct of that business, untill it shall be understood from experience.—

Jere^h^ Olney to Col^o^ Alexander Hamilton New York. [Hamilton Papers, vol. II, p. 203.]

Providence 3rd Novr 1788.

Your fav^r^ of 6th Ult^o^ was duly Received. I thought proper to pospone Replying to it (till after the Session of the Genl Assembly should be over which Terminated on Saturday night last) in order that I might have it in my power to give you with more Certainty the proceedings of the Legislature on the Subject of the New Constitution;—the Minority both in & out of the House took unwearied pains During the Session to procure a Convention in the Legal mode pointed out for Considering the New Constitution, but Sir it prov'd as heretofore an unsuccessfull attemp—for Mr Hazzard who is an Implacable & Powerfull Enimy to the New Systim, and the Leading Character in all the Vile politicks Carrying on in this Devoted State, had So well prepair'd the Majority that when the Question was put weather this State should appoint a Convention or not, the Question was lost Nearly three to one 15 in fav^r^ of the motion and 44 against it, after which (late on Saturday night) Mr Hazzard moved that a Vote be passed for printing Copy's of the Circular letter from the Convention of New York to be Distributed through-

out this State, and Submitting to the People at Large the propriety of appointing Deligates to meet a proposed Convention for Considering amendments agreeably to the Recommendations of Said Circular letter—the Vote being put after much Debate, it was Carried in favr of the measure by three to one. Notwithstanding Every Exertion of the Minority to prevent the adoption of So novel & unpresidented Proceeding—it was urged & with Truth that should a Convention Finally meet for the purpose of amending the Constitution, that it would be Composed Entirely of the Adopting States & as Such this State Could not upon any principles of Right Expect to be admitted to a Seat in that Honble Body as we So obstinately (and with our Eyes open) have Refused & Still neglect to accede to the New Systim [mutilated] the Union—but Sir Reason and argument will avail nothing with those wicked & Desining opposers to a Just & Honorable Fedarel Government—The assembly have made a [mutilated]ournment to the last monday in December next in [mutilated] hear the Report from the Respective Towns—Mr Hazz[mutilated] a Colo John Gardner (who is Intirely under the Influence of Mr H's Politicks) are ["app" stricken out] ordered by the Assembly to go on from this State and take their Seats in Congress as Soon as they Can leave Home So that in a short time you will have those two antis to Deal with—

[Letters to Washington, vol. LXXIII, p. 155. Madison Papers, vol. IV, p. 67. Copy.]

Js Madison Jr to [George Washington]

N. York Novr 5th 1788

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My information from Richmond is very unpropitious to federal policy. Yours is no doubt more full and more

recent. A decided and malignant majority may do many things of a disagreeable nature; but I trust the Constitution is too firmly established to be now materially vulnerable. The elections for the Legislatures of Penn[a] N. Jersey, & Maryland ensure measures of contrary complexion in those States. Indeed Virginia is the only instance among the ratifying States in which the Politics of the Legislature are at variance with the sense of the people expressed by their representatives in Convention.—We hear nothing from Massach[ts] or N. Hampshire since the meeting of their General Courts. It is understood that in both the appointments & arragements for the Government will be calculated to support and as far as possible to dignify it. The public conversation seems to be not yet settled on the Vice President. * * *

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A Hamilton to T Sedgwick Esq Boston Massachusettes [Hamilton Papers, vol. XVIII, p. 75.]

New York Nov[r] 9. 1778

Your last letter but one met me at Albany attending Court; from whence I am but just returned. Yours of the 2[d] instant is this moment handed me.

I am very sorry for the scism you hint at among the Foederalists; but I have so much confidence in the good management of the fast friends of the constitution that I hope no ill consequences will ensue from that disagreement—It will however be worthy of great care ["that" stricken out] to avoid suffering a difference of opinion on collateral points to produce any serious ["dis" stricken out] division between those who have hitherto drawn together on

the great national question—Permit ^me to add that I do not think you should ["permit" stricken out] ^allow any line to be run between those who wish to trust alterations to future experience and those who are ["zealous for" stricken out] ^desirous of them at the present juncture. The rage for amendments is in my opinion rather to parried by address than encountered with open force. And I should therefore be loth to learn that your parties have been arranged professedly upon the distinction I have mentioned. The mode in which amendments may best be made and twenty other matters may serve as pretexts for avoiding the evil and securing the good.

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[Madison Papers, vol. XVI, p. 31.]

Ed. Carrington to The Honble Mr Madison

Richmond Nov. 9. 1788

The Election for Senators came on yesterday and terminated as I gave you some reason to apprehend in my last—the Ballots were as follow: for R. H. Lee 98, for Wm Grayson 86, for Js Madison 77 the whole number of Voters was 162, 62 whereof were given singly to you, of those cast away Mr H. got 26, and the remainder were distributed to many others. I am confident that two thirds of the Assembly are ante's who meditate mischief against the Govt you will therefore account for the majority against you upon principles not dishonourable to yourself, and indeed many must have voted from personal regard against their own principles, or you could not have recd so great a Ballot. You had been committed in the Election before my return, but had I been here in time to have governed that circumstance, I should certainly have assented to it, even though

your rejection had been ascertained, because I wish you to have every possible evidence to oppose to calumnies which, upon some future occasion, it may, at least, be a desirable thing to refute.

The mode for electing the Representatives was determined upon last week and a Bill is reported which now stands committed to the whole house—the district plan in the fullest extent, is adopted by an union of Feds & Antifeds, so that no proposition could be offered agt it with the smallest chance of success—indeed this union of sentiment has carried into the Bill a restriction which perhaps may exceed the powers of the Assembly, but yet I see no prospect of its being struck out—residence of the Elected in his district for twelve months previous to his Election, is required. I am inclined to think that the Ante's inserted this with a view to you, and that the feds have assented to it from feeling their inferiority, they however tell me they think it right.—the districts are not yet arranged. The Bill providing for the Election of the Electors to vote for a Presidt was yesterday passed, in the House of Delegates—this choice is to be made by the people in districts, for which purpose the Senatorial districts are formed into twelve, by joining two together—the district in which Orange lies, is coupled with that of Albemarle, Amherst Buckingham & Fluvanna, from which I think you may expect to have an Ante for an Elector. The disquallifying Act of which I informed you sometime ago is brought forward by the Ante's—the design is doubtless to create discontents against the Federal Govt from the numbers of additional officers which must be employed amongst ["them" stricken out] the People, indeed to embarrass the U. S—; it

will, in the first instance, have this effect, but ["it must at length defeat the views of its projectors" stricken out] the scheme must at length, should the first difficulties be got over, have a direct contrary tendency—it will ultimately, in my opinion, greatly abridge the importance of the state, for the U. S, being debarred from confering their powers upon state Officers, will induce the most able of these into their service, particularly in the judiciary—the two Gov^{ts}. will contend in all cases of disputed jurisdiction, with unequal talents & the weakest must be worsted. on the contrary, could the state Officers also exercise federal powers, both obligations would bind equally, & in the judiciary there would be a peaceable arbiter between the two. The Feds who have ["conducted the business" stricken out] been most busy in conducting the business of the House, have rather connived at this project, conceiving the consequences which I have mentioned as desirable—I however differ from them in opinion—at least I think it will be necessary to be able to shew the people, when the odious circumstances appear, to whom they are to attribute them. what opposition I may make against it I, as yet, know not, but ["I" stricken out] shall at least have the yeas & nays on the Bill when it passes. The voice of this state runs pretty unanimously for Genl Washington as Presid^{t} and M^{r} H, is putting in agitation the name of Clinton for vice Presid^{t} which takes well with the Ante's—indeed it is more than probable he will receive a majority amongst the Electors to be chosen—Grayson is warm in such an election, He is indeed the devoted servant of Henry.—I have mentioned Knox & suppose he would meet with no opposition but what would arise on the principles of antifederalism,—you may rely

upon it my d^r Friend that Mr H. will throw into the Gov^t every embarrassment he possibly can

10th You will receive herewith the Journals of the House to the 6th Inst. in which are included the proceedings upon the subject of a Convention—also you will find the Resolution upon which the disquallifying Act is founded. be good enough to give the Presid^t a sight of them. Mr Mann Page of Mansfield is in Town & begs me to inform you that he will write you by the next post, upon the subject of the Election of a representative to Congress from the district which he suppose you will both be in—He is requested to offer by some his Friends but will not do so against you. several lists are formed for the districts but none have yet been submitted to the House—it will therefore be to no purpose to enclose you a copy of either.

Francis Corbin to [James Madison]

[Madison Papers, vol. XVI, p. 32.]

Virginia Richmond Novr 12th 1788

I have this moment received your Letter, and, tho' in a state of perplexity, about the measures necessary to be adopted with respect to the Circular Letter &c which are to be the Subjects of Tomorrows Debate, yet I cannot, flattered as I am with a prospect of Establishing a Correspondence no less beneficial to our Common Country than pleasing and instructive to myself, forego the pleasure of returning an immediate answer to it.

I waited with much Impatience and Solicitude to hear from you for Six Days—but finding it at length indispensably necessary, in consequence of the short time allowed us by Congress, to enter into the business of organizing the

Gov[t] I proposed certain Resolutions, as the Groundwork of the necessary Laws, which you have no doubt seen before this time, as I understand our friend Col: Carrington has inclosed you the Journals of the House of Delegates—

These Resolutions you will perceive are drawn, not so much in Conformity perhaps to the Spirit of the new Constitution as in Conformity to the Genius, the habits & Prejudices of the people of Virginia. The Division of the Country into Districts, the Exclusion of the "three fifths of all other persons," and the Requisition of Residence are the principles on which they are founded.

I readily anticipated, before I had the Satisfaction of receiving your Letter, the various objections that might be urged against them drawn from Constitutional Sources and from Self Interested views and local prejudices—But I conceived it to be the business of those who projected themselves on the occasion as true Federalists, to evince themselves to be, as much as possible, True Democrats; knowing full well that if the least opening had been given, Henry & his ["pack" written upon "people"], "Myrmidonum Dolopumve" would have been open mouth'd ag[t] Aristocracy—. I judged rightly as things have turned out—and altho' I have sacrificed my own personal views and Interests, and perhaps political Reputation by the course I have pursued yet, I trust, the Federal cause will be eventually benefitted by it—In this case I care not how soon I begin or how long I continue to suffer Martyrdom.

You will find in the Journals M[r] Henry's Resolutions upon the business of a second Convention and an answer to the Inflammatory Governor of New York—You will also see the Amendment which I offered to them. I hope they

will meet your approbation. Mr John Page & Carrington are with me at this moment drawing an Address to Congress in conformity to the Resons proposed by me as a Substitute for the one drawn agreably to Mr Henry's. This will appear upon our Journals & will tend to justify our Conduct and to operate as a Protest against theirs.

Your absence, My Dr Sir, is woefully felt by your Country—Yet it's base ingratitude deserves not your presence:—but I write inaccurately—the ingratitude of this present Assembly cannot be call'd the ingratitude of Virginia—. If you could see them you would agree with me that it is honorable not to be Esteem'd by them—Feeling myself as I do "in conscious virtue bold" I cannot help expressing myself sometimes with Contempt and oftentimes with indignation against them. They are all becme abominable and gone astray—. The Bill for Choosing Electors to Elect a President comes down from the Senate Tomorrow—The Bill concerning Representatives will go up to it the Day after—So that the whole business of organization will be completed by the 20th of this Month at farthest. This will afford time for promulgating the Laws and for carrying the Constitution into Effect by the Month of March—.

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G Washington to The Honble B. Lincoln Esqr

Mount Vernon November 14th 1788

[Washington Papers, Letter-book 6C, p. 334. Transcript.]

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I wrote to you on the day of Octr pretty fully, and therefore shall be more concise at present. Our Assembly (according to different reports) has proved itself to be, as was apprehended, very much under the influence of Mr

Henry. The choice of Delegates for the Senate in Congress has fallen upon two Gentlemen, who are considered to be rather opposed to the new Constitution, viz, Mr Richd H. Lee and Colo Grayson. But, notwithstanding they have been both of them solicitous to obtain previous amendments, Colo Henry Lee told me lately that Mr R. H. Lee had declared to him, a few days since, he wished to see the Government fairly carried into execution and that such alterations only should be adopted, as might be found necessary from its errors or defects"—if these were not the very words the observations, I think, were to that import. A similar sentiment, I have been credibly informed, has been expressed to more than one person by Colo Grayson. But the Fœderalists in the Assembly, as I am given to understand, were exceedingly mortified that Mr Madison should have lost his election by 8 or 9 votes. It is now much dreaded by the same characters, that the State (wh^h^ is to be divided into districts for the appointment of Representatives to Congress) will be so arranged as to place a large proportion of those who are called Antifœderalists in that Station.

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[Madison Papers, vol. XVI, p. 33.]

Ed. Carrington to The Honb^le^ Mr Madison

Richmond Nov. 15. 1788

I had the pleasure to write you on the 9th or 10th Inst. and inclosed the Journals to the 6th in these you had the Resolutions which had been agreed to upon the subject of a Convention—and you must also have seen that these resolutions were refered to a Committee for the purpose of having letters drawn according to the matter of them. the letters were reported last tuesday, and have today been under the con-

sideration of a Committee of the whole—they are agreed to but we have lessened the majority considerably by proposing drafts conforming to the resolutions of the Convention in June, and insisting that the people in that Convention had pointed out the mode in which amendments should be sought, and that the Assembly ought not to divert the course of their pursuit. the drafts which we proposed are accompanied with reasons addressed to the people with a view that they may see that the minority were for the most speedy & safe mode of gaining the desired object. for our amendmendment there were 49 Yeas & 71 Nays. ["& the" stricken out] the drafts that are agreed to are drawn in a Stile which, I think, would of itself alone place the authors of the measure in a disadvantageous light. the journals will be printed by the next post, when I will transmit them. it has hitherto been unfortunate that the federalists in the House have not acted in proper Concert—we are however getting martialed and I hope we shall, at least, upon every occasion be able to shew a respectable minority.

The Bill for district Elections of Representatives passed our House yesterday—the anti's have levelled every effort at you—the point of residence in the district is carried by some of the Feds having at an early period committed themselves upon that side. Your district is composed of the Counties of Amherst, Albemarle, Louisa, Orange Culpepper, Spotsylvania Goochland & Fluvanna—we wished to get Fauquier but the powers of the Anti's were too strong for us. You will have active Friends in Culpepper Spotsylvania Albemarle & Fluvanna—Orange & Louisa will, it is supposed require no prompting—your Friends wish you however to come ["in" stricken out] to this district at an early period, in order to

counteract a number of reports which may take hold upon the minds of the people—it is busily circulated that you declared in convention that the Constitution required no alteration whatever—it is as yet doubted whether Mr Strother, or Mr W. Cabel the Elder, will be your opponent—the latter however will not, unless upon the principle of having the strongest Interest of the two, and having reason to doubt whether the other will be able to exclude you—no effort will be left untried for effecting their purpose.

I have seen a letter of yours to Mr Turberville which I think you ought to permit to be published as yours—it is calculated at once to give the lye to the reports I have mentioned, & ["but" stricken out] to condemn the measure of a convention. I wish you would consider this matter, and should you not disapprove, permit the publication to take place—even Mr Henry has asserted in the House that you was against, or unfriendly, to amendments. Your Friends from the district will write you & therefore I will not say more on the point of y^r Election—you may however depend on meeting with all the opposition that can be brought into practice against you.

Present me to the President

[Madison Papers, vol. XVI, p. 34.]

Ed. Carrington to The Honble Ja^s Madison j^r

Richmond Nov. 18. 1788

I have been favoured with yours of the 4th & 6th Inst. in my last I inclosed the Journals to the 6th and now send the continuation to the 15th here you will see at large the drafts of letters upon the subject of a Convention which I mentioned in the letter alluded to above, and those which

were proposed by the minority in place of them. It is to be exceedingly regretted that the Feds had not acted from the first of the session, in concert—I verily believe that had such an union taken place at an early period, Mr Henry might, upon such propositions as these, have been left in a minority, by the day that his drafts of letters passed—as that subject upon the whole is now placed, I think the Feds have exhibitted themselves in a light before the Eyes of the people, which will be more satisfactory even to Antis, than the measures of the majority; ["will be ind" stricken out] indeed the palpable untruths contained in the drafts ought to fix the condemnation of the people ["in the State, &" stricken out] upon them.

The disquallifying act passed our House yesterday in all the latitude of the Resolution which you saw in the Journals I transmitted to the 6th.—this act is intended for the purposes of bringing odium upon the Federal Gov^t and embarrassing it. we have fixed its authors by the yeas & nays, in order, that the people may see, ["when" stricken out] the odious circumstances happen, to whom should they are to be attributed, & as to embarrassments the constitution will relieve itself from them by the clause which binds all State officers to observe the Laws of the Genl Gov^t & to execute them.—I regret the Bill on no other acc^t than that it marks the wicked Temper, as well as weakness, of the majority. upon this Bill the yeas were 71 against 52 nays. Govr Randolph, who took his seat in the House on Saturday last, voted on this question with the minority on acc^t of one or two inferior clauses which were in the Bill, but, upon its great principles, joined the majority in sentiment.

The Senate have today reported their agreement to the

Bill for the Election of Representatives to Congress with some small alterations, none of which affect your district.

It is as yet not ascertained who will be started against you. within a few days there has arisen some reason to suspect that Col° Monroe will be the man. let me apprise you that you are upon no occasion of a public nature to expect favors from this gentleman. Col° George Thompson of Fluvanna was here a few days ago—He tells me you will do well in that County, and that he will be active in your Election. in my last I mentioned several things to you concerning this business, which I must still urge you to attend to.

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[Madison Papers, vol. XVI, p. 35. Jefferson Papers, series 1, vol. III, No. 207. Press copy.]

Th: Jefferson to Mr Madison

Paris Nov. 18. 1788.

* * * with respect to the Federalist, the three authors had been named to me. I read it with care, pleasure & improvement, and was satisfied there was nothing in it by one of those hands, & not a great deal by a second. it does the highest honor to the third, as being, in my opinion, the best commentary on the principles of government which ever was written. in some parts it is discoverable that the author means only to say what may be best said in defence of opinions in which he did not concur. but in general it establishes firmly the plan of government. I confess it has rectified me in several points. as to the bill of rights however I still think it should be added, and am glad to see that three states have at length considered the perpetual re-eligibility of the president as an article which should be amended. I should deprecate with you indeed the meeting

of a new convention. I hope they will adopt the mode of amendment by Congress & the Assemblies, in which case I should not fear any dangerous innovation in the plan. but the minorities are too respectable not to be entitled to some sacrifice of opinion in the majority. especially when a great proportion of them would be contented with a bill of rights.

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A Hamilton to Mr J Madison [Madison Papers, vol. XVI, p. 39.]

New York Nov 23. 88

I thank you My Dear Sir for yours of the 20th. The only part of it which surprises me is what you mention respecting Clinton. I cannot however believe that the plan will succeed. Nor indeed do I think that Clinton would be disposed to exchange his present appointment for that office or to risk his popularity by holding both. At the same time the attempt merits attention and ought not to be neglected as chimerical or impracticable.

In Massachusettes the electors ^I understand will be appointed by the legislature and will be all Fœderal and tis probable will be for the most part in favour of Adams* It is said the same thing will happen in New Hampshire, and I have reason to believe will be the case in Connecticut. In this state it is difficult to form any certain calculation. A large majority of the Assembly was doubtless of an Antifœderal complexion; but the scism in the party which has been occasioned by the falling off of some its leaders in the Convention leaves me not without hope, that if matters are well managed we may procure a majority for some pretty equal compromise.

*He has tis said most partisans in the Legislature

In the Senate we have the superiority by one. In New Jersey there seems to be no question ^but that the complexion of the electors will be Fœderal and I suppose if thought expedient they may be united in favour of Adams. Pensylvania you can best judge of. From Delaware Maryland and South Carolina I presume we may count with tolerable assurance on fœderal men and I should imagine if pains are taken the danger of an Antifœderal Vice President might itself be rendered the instrument of Union. At any rate their weight will not be thrown into the scale of Clinton and I do not see from what ["source" stricken out] ^quarter numbers can be marshalled in his favour equal to those ["which" stricken out] who will advocate Adams supposing even a division in the Fœderal votes.

On the whole I have concluded to support Adams; though I am not without apprehensions on the score we have conversed about. My principal reasons are these— ^First He is a declared partisan of referring to future experience the expediency of amendments in the system, (and though I do not altogether adopt this sentiment) it is much nearer my own than certain other doctrines. Secondly As he is certainly a character of importance in the Eastern states, if he is not Vice President, one of ["th" stricken out] two worse things will be likely to happen—Either he must be nominated to some important office for which he is less proper, or will become a malcontent and possibly ["g" stricken out] expouse and ^additional give weight to the opposition to the Government.

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Wm Duer to Honble James Madison— [Madison Papers, vol. XVI, p. 56.]

Our mutual Friend Hamilton has communicated to me in Confidence the Substance of your Letter on the Political Prospects in Pensilvania, and Virginia; I learn with Extreme Regret, ["of" stricken out] the Division of the Federalists in the former State; and the malignant Perseverance of the Opponents to the Constitution in your own— I trust however that we shall have the Benefit of your Councils, and Exertions in the House of Representatives notwithstanding Mr Henry's Manœuvres to prevent it—You may remember some Conversation I once had with you on the Subject of Electing Mr John Adams as Vice President— I have ascertained it in a mode perfectly satisfactory, that this Gentleman if chosen, will be a Strenuous Opposer, against calling a Convention; which in the present State of Parties, I consider as a vital Stab to the Constitution; and not only that; but that he and his old Coadjuter R H Lee, will be perfectly opposite in all measures, relative to the Establishment of the Character and Credit of the Government—I am therefore anxious, that the Fœderalists to the Southward may join in supporting his Nomination as Vice President— A Greater Knowledge of the World has cured him of his old Party Prejudices—and I am satisfy'd nothing is to be feard from that Quarter—On the Contrary, should he not be Elected to this Station (which I am fully convinced is his Wish) his Lukewarmness, (should nothig Else be the Consequence,) will throw a pernicious Weight into the Anti-federal Scale—

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[Jefferson Papers, series 2, vol. XL, No. 3.]

D. Humphreys to His Excellency Thomas Jefferson Esq[r] &[c] &[c] &[c]

Mount Vernon Nov[r] 29th 1788

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There has been an extraordinary revolution in the sentiments of men, respecting political affairs, since I came to America; & much more favorable in the result than could then have been reasonably expected. At the close of the war, after the little season of unlimited credit was passed, the people in moderate circumstances found themselves very much embarrassed by the scarcity of money, by debts & taxes. They affected to think that the part of Society composed of men in the liberal professions & those who had considerable property, were in combination to distress them, & to establish an Aristocracy. Demagogues made use of these impressions to procure their own elections & to carry their own schemes into execution. Lawyers, in some States, by these artifices, became indiscriminately odious. In others men of the strongest local prejudices & narrowest principles had the whole direction of the affairs of their States. You will feel the force of this assertion the more readily, when you shall have been informed that the same Gen[l] Wadsworth, who was in Congress with you at Annapolis became, in conjunction with two or three of his Subalterns, the director of every political measure in Connecticut; and prevented, in almost every instance, a compliance with the Requisitions of Congress. On the other part, great numbers of those who wished to see an efficient fœderal government prevail, began to fear that the bulk of the people would never submit to it. In short some of them, who had been utterly averse to Royalty, began to imagine that hardly

any thing but a king could cure the evil. It was truly astonishing to have been witness to some conversations, which I have heard. Still all the more reasonable men saw that the remedy would be infinitely worse than the disease. In this fluctuating & irritable situation the public mind continued, for some time. The insurrection in Massachusetts was not without its benefits. From a view of the impotence of the general government, of the contempt in which we were held abroad & of the want of happiness at home, the Public was thus gradually wrought to a disposition for receiving a government possessed of sufficient energy to prevent the calamities of Anarchy & civil war; & yet guarded, as well as the nature of circumstances will admit, so as to prevent it from degenerating into Aristocracy, Oligarchy or Monarchy. True it is, that honest & wise men have differed in sentiment about the kind of checks & balances which are necessary for this purpose: but equally true it is, that there is not an honest & wise man who does not see & feel the indispensable necessity of preserving the Union. You will have been informed, long since, that all the States, Rhode Island & North Carolina excepted, have acceded to the proposed form of government. In the former paper-money & dishonesty are the sole causes of their perseverance in opposition—the same reasons are also assigned for the conduct of North Carolina; how justly, or unjustly, I know not. It is believed, however, that the latter will come into the pale of the new Union at the eleventh hour.

The general opinion of the Advocates for the Government is, that some explanations & amendments are highly necessary. They conceive, however, that it might be dangerous

to put every thing afloat, in seeking that object, before some degree of stability shall have been given to the System, by its being carried into effect. But it is thought that some, who push for premature amendments, wish to sap its very existance. That is to say, its opponents in the State of New York. Be that as it may, the probability amounts almost to a certainty, that it will be quietly carried into effect in March next. The Senators are as yet chosen only in three States, viz, in Connecticut, Dr Johnson & Mr Ellsworth, than whom better men for the purpose could not have been found there: in Pennsylvania Mr R. Morris & M^r^ M^c^Clay, the former you know personally—the latter is well spoken of. Col R. H. Lee & Col^o^ Grayson, the Senators of this State, are not comprehended under the denomination of Fœderalists—but it is generally believed, they will be less violent, than many of their party.

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[Madison Papers, vol. IV, p. 69. Copy.]

Js. Madison jr to Henry Lee Esq Alexandria Virginia

Philadelphia Nov. 30th 1788—

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The measures pursued at Richmond are as impolitic as they are otherwise exceptionable—if alterations of a reasonable sort are really in view, they are much more attainable from Congress than from attempts to bring about another Convention—It is already decided that the latter mode is a hopeless pursuit—N. H—Mass—Con. N. J. Pen^a^ & Delaware having appointed Senators known to be Bona fide friends to the Constitution—From the 1st state will be Langdon & Bartlett—from the 2^d^ Bowdoin & Strong—from N.

Jersey, Patterson & Elmer—the others you know—Maryland, S. Carolina & Georgia will make appointments of the like complexions—The elections of Rep^{s} for Pen^{a} is over, but the result is not yet known from all the counties, little doubt is entertained on one side, that it will prove favorable, though the other side do not renounce its hopes—In the city the majority was nearly as five to one—In Lancaster county still greater I am told, and in one or two others, the proportion not less—The antifederal counties however are farthest off, and have not yet been heard from—In Berks where unanimity almost prevailed on that side, the badness of the day and the height of the waters reduced the number of voters to about 400—although the county must contain several more—In general a small proportion of the people seemed to have voted—How far this is to be charged on the weather or an indifference to the occasion I am not able to say—

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J^{s} Madison Jr to [George Washington]

Philad^{a} Decr 2^{d} 1788

[Letters to Washington, vol. LXXIII, p. 179. Madison Papers, vol. IV, p. 70. Copy.]

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One of the papers herewith inclosed will shew you the state of the election for the Senate, in Mass^{ts} It was understood here that Mr Bowdoin was appointed, & I have transmitted the error to some of my correspondents. N. Hampshire has made choice of [" M^{r} " stricken out] President Langdon & Judge Bartlett. N Jersey of Mr Patterson and Doc^{r} Elmer. Deleware of Mr Read and Mr Bassett. South Carolina has postponed her choice till January. Mr Izzard, M^{r} J Rutledge, Mr Butler and Mr C. Pinkney are the subjects

of conversation. Penn[a] alone has arrived at the elections for the other branch. The entire result is not yet known; but a sufficient number of the Counties have been heard from to warrant a confidence that 7 out of the 8, and a probability that the whole eight, will be found in the federal ticket. This prospect is on the whole auspicious; and shews the folly of Virg[a] if the measures of the legislature are to be taken for the sense of the State in urging another Convention at this time. The real friends to the object professed by the leaders at Richmond, ought to see that the only hope of obtaining alterations lies in not aiming at too many, and in being conciliatory as to the mode.

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[Madison Papers, vol. XVI, p. 43.]

Alex White to [James Madison]

Richmond 4th Decem[r] 1788

Your obliging letter of 5 October reached me before I left Woodville—I was detained some days by an indisposition so that the Resolutions on which the Address to Congress and letter to Clinton were founded, had passed before my arrival, I had however the pleasure of giving my negative to the Address and Letters themselves, and of contributing somewhat towards forming those which were offered as Amendments

But of these matters I understand you have been informed by your other Friends, this letter is only to express my anxious wish that you may be in the House of Representatives in Congress and that you may be chosen in your own District—I believe this will be the case, but to render it more certain your presence among the People would have great

effect—and I presume the business of Congress is not so urgent, but your ["time" stricken out] attendance may well be dispensed with—Some Gentlemen suppose you may be elected in other Districts, and that Congress would disregard the Act which requires Residence in a particular District. I will not undertake to decide that question, but this I know, such a determination would afford much ground of clamour; and enable the opposers of the Goverment to inflame the minds of the People beyond anything which has yet happened We yesterday balloted for a Governor, Candidates Ben: Harrison and Beverly Randolph—the latter was elected by a majority of 4—

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Th: Jefferson to H. E. Gen[l] Washington

Paris Nov. 4. 1788.

[Letters to Washington, vol. LXXIII, p. 184. Jefferson Papers, series 1, vol. III, No. 225. Press copy.]

* * * I have seen, with infinite pleasure, our new constitution accepted by 11. states, not rejected by the 12th and that the 13th happens to be a state of the least importance. it is true that the minorities in most of the accepting states have been very respectable, so much so as to render it prudent, ["were" written upon "to m" erased] it not otherwise reasonable, to make some sacrifices to them. I am in hopes that the annexation of a bill of rights to the constitution will alone draw over so great a proportion of the minorities, as to leave little danger in the opposition of the residue; and that this annexation may be made by Congress and the assemblies, without calling a convention which might endanger the most valuable parts of the system. calculation has convinced me that circumstances may arise, and probably will arise, wherein all the resources

of taxation will be necessary for the safety of the state. for tho I am decidedly of opinion we should take no part in European quarrels, but cultivate peace and commerce with all, yet who can avoid seeing the source of war in the tyranny of those nations who deprive us of the natural right of trading with our neighbors? the produce of the U. S. will soon exceed the European demand: what is to be done with the surplus, when there shall be one? it will be employed, without question, to open by force a market for itself with those placed on the same continent with us, and who wish nothing better. other causes too are obvious which may involve us in war; and war requires every resource of taxation & credit. the power of making war often prevents it ["war" stricken out], and in our case would give efficacy to our desire of peace. if the new government wears the front which I hope it will I see no impossibility in the availing ourselves of the wars of others ["a time of war" stricken out] to open the other parts of America to our commerce, as the price of our neutrality.

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[Jefferson Papers, series 1, vol. III, No. 227. Press copy.]

Th: Jefferson to H. E. Gen[l] Washington

Paris Dec. 5. 1788.

I this moment discover that I have dated my letter of yesterday Nov. 4. instead of Dec. 4. * * *

[Madison Papers, vol. IV, p. 71.]

J[s] Madison Jr to [Thomas Jefferson]

Philadelphia Dec[r] 8. 1788.

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Notwithstanding the formidable opposition made to the New federal Government, first in order to prevent its adop-

tion, and since in order to place its administration in the hands of disaffected men, there is ["a flattering prospect not only a certainty" stricken out] now both a certainty of its peaceable commencement in March next, and a flattering prospect that it will be administred by men who will give it a fair trial. * * *

The questions which divide the public at present relate 1. to the extent of the amendments that ought to be made to the Constitution. 2. to the mode in which they ought to be made. The friends of the Constitution, some from an approbation of particular amendments, others from a spirit of conciliation, are generally agreed that the system should be revised. But they wish the revisal to be carried no farther than to supply additional guards for liberty, without abridging the sum of power transferred from the States to the general Government and are fixed in opposition to the risk of another Convention, whilst the purpose can be as well answered, by the other mode provided for introducing amendments. Those who have opposed the Constitution, are on the other hand, zealous for a second Convention, and for a revisal which may either not be restrained at all, or extend at least as far as alterations have been proposed by any State. Some of this class, are, no doubt, friends to an effective Government, and even to the substance of the particular Government in question. It is equally certain that there are others who urge a second Convention with the insidious hope, of throwing all things into Confusion, and of subverting the fabric just established, if not the Union itself.—If the first Congress embrace the policy which circumstances mark out, they will not fail to propose of themselves, every desire-

or altering previous to trial, the particular structure of the latter

able safeguard for popular rights; and by thus separating the well meaning from the designing opponents, ["place" fix on stricken out] the latter their true character, and give to the Government its due popularity and stability.

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[Madison Papers, vol. XVI, p. 45.]

Henry Lee to [James Madison]

Alex.ª Dec.r 8.th 88.

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The phrenzy in Richmond seems not yet to have abated, the circular letters afford new testimony of Henry.s influence & venom. It is farther said that this gentleman.s efforts on the late occasion have been concluded by instructing the representatives to the new Congress to act only in cases where the spirit of the Virg.ª amendments shall govern—If the tale is true our delegates will be expressly limited in their powers. This is only a rumour & for the reputation of our country, I hope will turn out nothing more—

You have decided as to your own intended conduct, injudiciously—Your district will certainly elect you, I have heard no person named in opposition but the beau. In this district, Tho.s Lee or C. Bullitt are named among the Antes, on our side Stuart L. Lee or R B Lee—

In my district on one side A Lee or Roan, on the other Corbin & myself.

It is probable that each party will fix on one man, & that the election will decide the will of the people, provided the districts have not been artfully designated—

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J[s] Madison Jr to [Thomas Jefferson] [Madison Papers, vol. IV, p. 72.]

Philad[a] Dec[r] 12. 1788

* * * Since mine already in the hands of M[r] Morris further returns have been rec[d] from the Western Counties of this State, which tho' not the entire residue, reduces the final result to certainty. There will be seven representatives of the federal party, and one a moderate antifederalist. I consider this choice as ensuring a majority of friends to the federal Constitution, in both branches of the Congress; as securing the Constitution ag[st] the hazardous experiment of a second Convention; and if prudence should be the character of the first Congress, as leading to measures which will conciliate the well-meaning of all parties, and put["ting" stricken out] our affairs into an auspicious train.

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Hardin Burnley to The hon[ble] J[s] Madison j[r] [Madison Papers, vol. XVI, p. 47.]

Richmond Dec[r] the 16th 1788

I suppose that you have been made acquainted before this with the several acts which have passed the legislature of Virg[a] for the purpose of organizing the new Government. You have no doubt been informed that this State is divided into ten districts, each to choose a representative in the new Congress, on the second day of February next. The district in which Orange is included, consists of the counties of Albermarle Amherst Orange Culpeper Spotsylvania Louisa Goochland & Fluvanna. Your friends in this district have taken the liberty of assuring the people that your services may be commanded in the house of representatives if they will confer the appointment on you. With many this is sufficient, but with all it is not. Col: Monroe is also nomi-

nated & the most active unceasing endeavours will not be wanting among his friends to secure his election. It therefore becomes indispensably necessary that your return to Virg[a] should be hastened as much as possible. If you could return before Culpeper Jan[y] Court which is on the third Monday & make it convenient to see the people of that county on that day I am satisfied it would have a decided influence on the election. I know that this has not been your usual practice, and am certain that it will be very irksome to you, but your friends hope that you will make some sacrifices of this sort however disagreable they may be in order to secure a measure to which the views of all the friends to the Gov[t] are pointed with the most earnest Sollicitude. Every Subject which has been introduced into the legislature & which has had the most distant relation to the new Constitution has before its determination been made a federal & antefederal question. Great endeavours are making to give the ["Government" stricken out] Elections the same turn & to propogate an idea that you are wholly opposed to any alteration in the Gov[t] having declared that you did not think that a single letter in it would admit of a change. This circumstance alone would render your presence necessary for let ["them" stricken out] these reports be denied as often as they may by your friends there are others among those who oppose you who will as repeatedly revive them and nothing can give them an effectual check but a Denial of them in the face of the people and an avowal of your real sentiments on the subject of amendments. If you approve my ideas on this subject & should have it in your power, perhaps a day spent at Louisa court on the second Monday in Jan[y] would not be time lost. * * *

H Knox to His Excellency General Washington— [Letters to Washington, vol. LXXIII, p. 202.]

New York 21 December 1788

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In the states of New Hampshire Massachusetts and Connecticut, the great object of organizing the new constitution, engrosses the attention of the people—It is with sincere satisfaction that I can assert from personal observation that the affection for the new system is encreasing in those states and that it is dayly becoming highly popular.

The senators of those states are characters calculated to inspire confidence in the new government, and are all highly federal— I am persuaded the representatives will generally if not entirely be of the same description

As to Rhode Island, the majority are in such a train that nothing good can at present be expected from them—their paper money system, and tender-laws, are sufficiently characteristick of their pursuits

New York are also laboring under errors of Conduct— But from the powerful party in favor of the new system something may be hoped from the ensuing elections

New Jersey, Pennsylvania Delaware and Maryland are right—

The late choice of representatives in Pennsylvania may be considered as a new and fair appeal to the people as it respects their approbation of the new government— Alhough the party in favor of their local constitution have been brought to operate against the general constitution, yet it appears the majority of the people are its firm supporters—

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[Jefferson Papers, series 1, vol. III, No. 239. Press copy.]

[Thomas] Jefferson to Mr Carmichael

Paris Dec. 25. 1788.

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You have long ago known that 11. states have ratified our new constitution, and that N. Carolina, contrary to all expectation, has declined either accepting or refusing, but has proposed amendments copied verbatim from those of Virginia. Virginia & Massachusets had preferred this method of amendment that is to say, desiring Congress to propose specific amendments to the several legislatures, which is one of the modes of amendment provided in the new constitution. in this way nothing can be touched but the parts specifically pointed out. New York has written circular letters to the legislatures to adopt the other mode of amendment, provided also by the constitution, that is to say to assemble another federal convention. in this way the whole fabric would be submitted to alteration. it's friends therefore unite in endeavoring to have the first method adopted, and they seem agreed to concur in adding a bill of rights to the Constitution. this measure will bring over so great a part of the Opposition that what will remain after that will have no other than the good effect of watching, as centinels, the conduct of government, and laying it before the public. many of the opposition wish to take from Congress the power of internal taxation. calculation has convinced me this would be very mischievous.

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G° Washington to The Honble Majo^r^ General Knox. [Washington Papers, Letter-book 9, p. 67. Transcript.]

Mount Vernon Jany 1st 1789

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I am much pleased to find that the accounts, which I had heard from different quarters of the encrease of federal sentiments, are confirmed by your letter. The appointment of senators taken collectively is certainly very happy.—I suppose the two gentlemen appointed by this State are looked upon at the eastward as being included in that class of antifedaralists, who wish to cause such great and premature amendments, as will render the government abortive. This idea, I have the best reason to believe, will be found untrue. My belief is founded upon the unequivocal assertions of Colo Graisson previous to his election; and those of Mr R. H. Lee posterior to his election. It is also pretty well ascertained, that, if any considerable proportion of the pains shall be taken by the federalists, which will be by the antifederalists, a majority of the Representation from this State to Congress would undoubtedly be composed of the former description.—At present, however, it appears very uncertain whether that will be the case or not: as several federalists, who might in all probability be chosen, have, on account of their private affairs, declined standing as Candidates. Insomuch that it is to be feared, in some instances, the Votes of the Advocates for the Constitution will be scattered and lost.

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G: Nicholas to [James Madison] [Madison Papers, vol. XVI, p. 58.]

Jany 2^d^ 1789.

It gives me pleasure to find by your letter of the 29th of Decr that you have returned home and intend to make your

sentiments known to the inhabitants of your district. Justice to yourself and your country both require that this should be done and in an effectual manner. Every art has been used to prejudice the minds of the people against you. They are told, that you tricked this country into the business by the manner in which you first proposed a general convention to our legislature; that you had a chief hand in sending forth the constitution from the Convention without the amendments generally wished; and that you are now opposed to all amendments. These things I believe originated with Henry and have been circulated through the state by his tools such as Strother &c. You have no doubt heard that when you was proposed as a senator Henry objected to you in his place and represented you as averse to all amendments. Only one of two ways appears to me to be proper in your situation; either for you in this month to visit the different counties on their court days, or to publish an address to the people. The first will be the most disagreeable and the least likely to have a good effect as from the season of the year it cannot be expected that many will attend either the election of electors or their January court. The latter mode if the address is printed and in sufficient numbers will convey your sentiments to every freeholder's fire side. The attack that has been made on you in your absence, the false light in which your opinions have been placed not only make this proper but I think necessary: and if I may give my real sentiments as Henry undertook in a most unprecedented manner to oppose you when nominated and to give a false account of your opinions, that you should address him also in the news papers, which address should also accompany that to the free holders of the district,

stating his conduct and that this was the only way left you from your absence and the short time you had to justify yourself. The sentiments expressed in your letter will I am certain be satisfactory with this addition that if elected let your private opinion of any particular amendment proposed by our convention be what it may, that you should consider it as your duty to procure the adoption of them all: this if it conforms to your sentiments of the conduct proper to be observed by a representative would give satisfaction to all moderate well meaning men.

I have thus with a freedom which no occasion but the present could have induced me to take offered you whose judgment I know to be so much superior to mine upon all occasions, my sentiments as to the line of conduct most proper for you to pursue on this occasion. I consider the opposition to you as an attack on the constitution itself, and that if after leaving you out of the senate they can also prevent you from being appointed to the house of representatives it will be thought by the other states as an expression of dislike to the constitution both by the legislature and the people.

The conduct of the last Assembly may very easily be used in favor of the new government and made to prove that their conduct proceeded from a wish not to amend but to destroy the new government. If this was not the case why after objecting to the additional expence w^{h} would be caused by the new govern^{t} have they passed a law to prevent any man from holding any office under the gen^{l} and state governments at the same time which will double the expence which would otherwise have been necessary for that government. If you approve of what I have mentioned

there is yet time enough to get the address published and sent to the courts of the diff^{t} counties in the district except Fluvanna and Amherst and I could send them to such hands in those counties as would distribute them. I think you had better also write to Col: Hugh Rose in Amherst, Col: George Thompson in Fluvanna, Thomas Underwood and some other of your acquaintance in Goochland, Callis, Morris and Ja^{s} Dabney in Louisa. The other counties I am not acquainted in. I apprehend greater danger of the event than those$^{gent^{n}}$ you mention in your letter. From the information I can gather the counties this way will stand thus: Amherst $\frac{3}{4}^{ths}$ at least against you; Albermarle a majority in your favor but not as great as I could wish; Fluvanna at most divided; Goochland a majority against you; you should write to Ford the preacher in that county whom you know. Louisa a small majority in your favor.

I fear my situation will oblige to leave this county before the election but as long as I stay no opportunity shall be lost of explaining my opinions to the people and I speak only what is thought by much the greater part of the worthy citizens of the state, when I assure you that I consider much good or evil to depend on the event of the election.

One thing strikes me respecting a second gen^{l} convention which I have not heard mentioned by any body. If Congress call a second convention they are to determine on the mode by which the members to that convention shall be chosen. The senate is composed of the creatures of the state legislatures and if they can have influence enough the choice will certainly be referred back to their masters: thus the convention also will be the tools of the state legislatures; and by referring their proceedings to the different assemblies

in the states instead of conventions for their final decision the whole business of amendments from first to last will be determined by the state legislatures. What the event will be when their power is so much abridged by the new government may be easily imagined: but I hope the people will never suffer a government adopted by them, to be changed without their being consulted, and yet I do not see how this is to be avoided if a second general convention is called.

Your county man Leland has great influence in Louisa and Goochland cannot he be prevailed on to exert himself. Culpeper and Spotsylvania are most to be dreaded and the greatest efforts made in that quarter.

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J^s^ Madison Jr. to Mr Eve

[Madison Papers, vol. IV, p. 74.]

January 2^d^ 1789

Being informed that reports prevail not only that I am opposed to any amendmends whatever to the new federal Constitution; but that I have ceased to be a friend to the rights of Conscience; and inferring from a conversation with my brother William, that you are disposed to contradict such reports as far as your knowledge of my sentiments may justify, I am led to trouble you with this communication of them. As a private Citizen it could not be my wish that erroneous opinions should be entertained, with respect to either of those points, particularly, with respect to religious liberty. But having been induced to offer my services to this district as its representative in the federal Legislature, considerations of a public nature make it proper that, with respect to both, my principles and views should be rightly understood.

I freely own that I have never seen in the Constitution as it now stands those serious dangers which have alarmed many respectable Citizens. Accordingly whilst it remained unratified, and it was necessary to unite the States in some one plan, I opposed all previous alterations as calculated to throw the States into dangerous contentions, and to furnish the secret enemies of the Union with an opportunity of promoting its dissolution. Circumstances are now changed: The Constitution is ["ratified by and secured by" stricken out] established on the ratifications of eleven States and a very great majority of the people of America; and amendments, if pursued with a proper moderation and in a proper mode, will be not only safe, but may serve the double purpose of satisfying the minds of well meaning opponents, and of providing additional guards in favour of liberty. Under this change of circumstances, ["therefore" stricken out] it is my sincere opinion that the Constitution ought to be revised, and that the first Congress ["ought to" stricken out] meeting under it, ought to prepare and recommend to the States for ratification, the most satisfactory provisions for all essential rights, particularly the rights of Conscience in the fullest latitude, ["established by this State" stricken out], the freedom of the press, trials by jury, ["protection" stricken out] security against general warrants &c. I think it will be proper also to provide expressly in the Constitution, for the periodical increase of the number of Representatives until the amount shall be entirely satisfactory; and to put the judiciary department into such a form as will render vexatious appeals impossible. There are sundry other alterations which are either eligible in themselves, or being at

least safe, are recommended by the respect due to such as wish for them.

I have intimated that the amendments ought to be proposed by the first Congress. I prefer this mode to that of a General Convention, ["in the present temper of America" stricken out], 1st because it is the most expeditious mode. A convention must be delayed, until $\frac{2}{3}$ of the State Legislatures shall have applied for one; and afterwards the amendments must be submitted to the States; whereas if the business be undertaken by Congress the amendments may be prepared and submitted in March next.—2dly because it is the ["least" stricken out] most certain mode. There are not a few States who will absolutely reject the proposal of a Convention, and yet not be averse to amendmends in the other mode.—lastly, it is the safest mode. The Congress, who will be appointed to execute as well as to amend the Government, will probably be careful not to destroy or endanger it. A convention, on the other hand, meeting in the present ferment of [parties "America, for the undefined purpose of revising the Constitution" stricken out], and containing perhaps insidious characters from different parts of America, would at least spread a general alarm, and [be but too "might would be far more" stricken out] likely to turn every thing into confusion and uncertainty. It is to be observed however that the question concerning a General Convention, will not belong to the federal Legislature. If $\frac{2}{3}$ of the States apply for one, Congress can not refuse to call it: if not, the other mode of amendments must be pursued.

[Jefferson Papers, series 2, vol. XIV, No. 69.]

S^{t} Jno [de Crevecœur] to His Excellency Thomas Jefferson Esqr

New York 5th Jany 1789

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here everything wears the most pleasing aspect; the different legislatures of the adopting States are enacting Laws to put ye new Gouv^{t} in motion; the dispute now carrying on at albany between the Senate & assembly about electing the federal Senators by a joint ballot of the Two houses, will I believe end in a compromise (for I must Inform you with ye Lower House being all antis, & the upper one all the Reverse) it is therefore probable that each party will chuse his man—the choice of the Fed. will be G^{l} Schuyler, & that of the Ant– will be a Mr Yates the only one of that parti who can be listen'd to with some patience; all the rest being Illitirate & Ignorant; our Govr who sees that nothing can stop the Federal Tide is very much chagrined—he Looses dayly some degree of popularity among his warmest Partisans who perceiving that, spite of the Idea they had of his abilities as well as of the righteousness of their cause every thing ["goes" is" stricken out] ag^{t} them begin to think him less Infallible & the new Sistem less obnoxious;

Everybody here seems to think that your Virginia anti-fed. Senators Col^{s} Greyson & Lee, when once well fixed on their seats will feel less attach'd to their opinions, some even suspect the sincerity of the first;—Mr Maddison after having spent his Christmass holy days at Mount Vernon is gone home, where 'tis said he will be powerfully opposed in his election for a federal representative by Col^{o} Munro, lately a warm fed, & now Inlisted under the banners whose Influence is very Great Indeed; 'tis proposed in Virginia to

vote for Govr Clinton as a President, some back counties in Pensilvania will unite as well as this State—The Truth is that ye Majority of ye Last house of Assembly in Virginia was composed of Men of singular Temper, the Epitome of their Transactions wou'd not be much to their Credit, but your Friends have no doubt Inform'd you with those Home concens;

The State of Massachussets is now busy in making its federal choice but the Law which prescribes the Mode is so bad, that it is pretended none will be made—fortunately ye G^l Court being now in session will promulgate a better one—tis said that Carolina has terminated its choice & that there are 4 antifeder[mutilated] but we have no particulars as yet—

Notwithstanding all these untoward appearans, I am convinced that ye Nail is clinched; this Country can remain no longer without a Gouv^t & ye sticklers for amendments are only those who are head over heels in debt; our Govr is not a Man of sufficient abilities to become the head of a Party—Col^o Hamilton is just sat out for albany, not that he is a Member of the House, but to be on ye Spot & help in directing his Friends;

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Js. Madison Jr to Genl Washington

Orange Jany 14th 1789.

[Letters to Washington, vol. LXXIII, p. 207. Madison Papers, vol. IV, p. 75. Copy.]

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I have pursued my pretensions much farther than I had premeditated; having not only made great use of epistolary means, but actually visited two Counties, Culpeper & Louisa, and publicly contradicted the erroneous reports propagated

agst me. It has been very industriously inculcated that I am dogmatically attached to the Constitution in every clause, syllable & letter, and therefore not a single amendment will be promoted by my vote, either from conviction or a spirit of accomodation. This is the report most likely to affect the election, and most difficult to be combated with success, within the limited period. There are a number of others however which are auxiliaries to it.

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[Jefferson Papers, series 2, vol. XXIV, No. 65.]

A Donald to [Thomas Jefferson]

Richmond 16th January 1789

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Every Person seems to be more engaged either for, or against the new Government, than in their own private concerns. The opposition to it is formidable, at least in point of numbers, but contemptable in every other point of view, I speak only of those who are against it, in toto. For many good & sensible men are for previous amendments. For my own part I think, that as all of them are of a general, & not of a local nature, it will be better to have the amendments made by the New Congress.—I auger so well of the Government (provided they (The President & the rest of the Executive) have the means of enforcing their Laws) that I am loath to run the risk of loosing it. * * *

[Letters to Washington, vol. LXXIII, p. 209.]

J. E. Howard to General Washington to the care of Col^{o} Fitzgerald Alexandria

Annapolis Jany 23. 1789

I have the honor to enclose a proclamation which will inform you of the result of the late elections in this state.

The federal ticket has been carried by a very large majority. Knowing that this circumstance will give you pleasure I have taken the earliest opportunity of communicating it. One circumstance I will add that in the county which bears your name out of 1164 taken there was not one for the antifederal ticket.

[ENCLOSURE.]

BY HIS EXCELLENCY [Print.]

JOHN EAGER HOWARD, ESQUIRE,

GOVERNOR OF THE STATE OF MARYLAND,

A

PROCLAMATION.

WHEREAS the general assembly did, by an act passed at their late session, entitled, An act directing the time, places and manner, of holding elections for representatives of this state in the congress of the United States, and for appointing electors on the part of this state for choosing a president and vice-president of the United States, and for the regulation of the said elections, direct, that the governor and council, after having received the returns, papers and instruments, containing the number of votes for each candidate for representatives of this state in the congress of the United States, and for electors on the part of this state for choosing a president and vice-president of the United States, should enumerate and ascertain the numbers of votes for each and every candidate and person chosen as representatives or electors respectively, and, by proclamation dispersed through the state, declare the names of the six persons duly elected as representatives, and the names of the eight persons duly elected as electors. We, in pursu-

ance of the directions of the said act, do, by this our proclamation, declare, that, by the returns made to us, it appears, that the HONOURABLE JOSHUA SENEY, DANIEL CARROLL, BENJAMIN CONTEE, GEORGE GALE, WILLIAM SMITH and MICHAEL JENIFER STONE, ESQUIRES, are duly elected representatives of this state in the congress of the United States; and, that the HONOURABLE JOHN ROGERS, GEORGE PLATER, WILLIAM TILGHMAN, ALEXANDER CONTEE HANSON, DOCTOR PHILIP THOMAS, ROBERT SMITH, WILLIAM RICHARDSON and WILLIAM MATTHEWS, ESQUIRES, are duly elected electors on the part of this state for choosing a president and vice-president of the United States.

GIVEN in council, at the city of Annapolis, under the seal of the state of Maryland, this twenty-first day of January, seventeen hundred and eighty-nine.

J. E. HOWARD.

BY HIS EXCELLENCY'S COMMAND,

T. Johnson, jun. Secretary.

GOD SAVE THE STATE.

[Madison Papers, vol. XVI, p. 63.]

Tench Coxe to [James Madison]

New York 27th Jany 1789—

I have been here about a Fortnight during which time we have not made a Congress. Sº Carolina, Virgª, Pennsª, N. Jersey, & Massachussets are represented. There is one Member from each of the States of Rhode Island, N. Carolina & Georgia, but none from New Hampshire, Connecticut N. York, Delaware or Maryland. I very much wish we may make a house in a week or ten days, as I think the Appearance in

Europe, & perhaps even here, of the old Congress being in full operation and tranquilly yielding the seats to the new would have a good effect. The misrepresentations in Europe have been extremely gross, and must have an unfavorable effect upon Emigration in the poorer ranks of life—Col. Wadsworth has been mentioned as President—I respect him much, but I wish to give appearance to the old System by a Character of rather more celebrity—Mr Adams would meet my Judgment better than any member of the present house—The principal Objection is his Absence, which I fear will deprive him of his chance.

The federal business in Penns.ª is happily closed. Our Electors, & Senators are all federal, & seven of our Repˢ the eighth is a german, so that I doubt not he will feel the influence of the federalism of his countrymen which is actual, and he will also I think, from being rather fond of public office, feel the federalism of the state. His Sentiments were doubting if not opposed to the Constitution. He is a man of private virtue some Patriotism & judgment, and not ignorant of the Affairs of Pennsylvania. In our state politics he has been a constitutionalist latterly a mild one, that is a prudent politician.

The State of New York still retain their impressions against the Constitution. They still decline to elect Senators upon legislative principles, and I think an absence of two of the Senate is, from Appearances determined on to avoid the precedent of conceding their due legislative independence—They will have two antifdltˢ, and no Merchant on their Senate. Massachussets & Penns.ª alone ["will" stricken out] have attended to mercantile character in the Senate, which will assist in obviating the Objections to the commercial powers of that body—This is in favor of the Constitution, but possi-

bly not so favorable to the interests of the Union as if there were five or six merchants. The practice under the Constitution will, in my opinion, be more agreeable to the Opposition in many other particulars than their leaders are aware of. In this particular instance it is fortunate that our Senator is a man of extensive political information, and landed property and, tho a practical Merchant, a friend to a pretty free System of Trade. I do not think the most captious agriculturist in the Senate will find Mr Morris tenacious of any principle that will be injurious to the landed interest.

The election of New Jersey for Electors is federal. This with the choice of their Senators augurs well with regard to the reps I do not find any doubt that there will be two feds among them, most probably three and I think very probably four. The federalism of Jersey, and its obligations and inducements to adhere to the union & a vigorous system of federal politics will be a pretty strong Security for the good Conduct of her Representatives. The re-election of a federalist for a Senator by new Hampshire is a symptom of the continuance of the Acquiescence of that State in the Constitution—Mr Wingate I mean in the room of Mr Bartlett. I find too they think of Mr Adams as V. P. which also shews there is no violent discontent—There are good Symptoms also in the Elections so far as known here. Massachussetts seems also to evince feelings equally favorable, and Connecticut still more—I understand however from Dr Johnson that the latter State mean to remove all their Senators & reps from all state offices. This tho merely from general republican reasons will probably lose us an individual or two of the Senate & house of Reps Mr Ellsworth, and I think Mr Sherman are of the state Judiciary. They will

be great losses to the government, if they adhere to their state appointments—Delaware has given us federalists altogether, and I believe Maryland. From this detail, of wch I presume you knew the greater part before I think the Government will be well supported from the North side of the Powtowmack, even in the house of Rep^s^ New York by her districts will have two federalists & very able ones I hope—

The Election of Virg^a^ is an Object of great Anxiety with me—not that I hope or fear much, for I presume the ticket will have a very moderate portion of federalism. But, Sir, when examine the list of representatives & see how few are yet returned and how few are likely to be returned to that house, who are able to take the lead in a scene of that kind I confess I feel some apprehensions about the advantages the opposition may gain from the Speakers of your state, and the greatest solicitude lest we should be deprived of that support which your ticket may give us. I most sincerely hope this will find your own election secured. The Senate was in my mind not the place in which the cause required you to be in any point of view, but one that there seemed little probability that your legislature would favor the pretensions of any federalist unless they would elect you. Your election would be a gain therefore, wch could not perhaps be otherwise secured, but the Senate was never the place where my fears rested. I therefore felt little regret at the issue of the choice by your state. The house of Representatives is a scene of the utmost importance—If happily conducted little is to be feared—if it proves unfriendly great talents—great exertions—great public estimation in favor of our leading friends will be necessary to prevent the most serious evils—if it cannot be

induced to countenance the constitution the unanimity of the senate [“would” stricken out “will”], under present circumstance avail but little.

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[Washington Papers, Letter-book 9, p. 92. Transcript.]

G°. Washington to The Honble Ben^n^ Lincoln

Mount Vernon Jany 31st 1789

Your two letters of Decr 20th and January 4th are before me. I am much obliged to you for the intelligence contained in them: because it enabled me to contradict a report, in circulation among the Antifederalists, that your State had made choice of only one Representative to Congress, that no more would probably be appointed and that every thing was in very great confusion. Though facts will ultimately become known; yet much mischief to the federal cause may be done, by suffering misrepresentations to pass unnoticed or unrefuted. Last winter the Antifederalists in Philadelphia published, that Connecticut had been surprised into an adoption of the Constitution, while a great majority of the freemen were opposed to it.—Now it is certain, nothing can fix the stigma of falsehood upon that assertion, better than the late respectable appointments in that State. Much the same thing has happened in Maryland. The Federal Ticket has been carried by the majority of thousands. In the County which bears my name, there was not a dissenting vote.—

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[Jefferson Papers, series 2, vol. LVII, No. 28.]

Ja^s^ Monroe to [Thomas Jefferson]

Fredricksb^g^ Feby. 15. 1789.

Your favor of the 9th of August last has been rec^d^—before this I doubt not mine of a date subsequent to those you

acknowledge has reach'd you. It gave you a detail of the proceedings of the convention of this State. Since which the eleven that have adopted the gov^t^, under the act of Congress that was necessary to put them in motion, have taken the necessary measures for its organization; except New York, whose operations have been retarded, by some misunderstanding between the Senate & the other branch of the government. This obstacle will however I doubt not be remov'd, since I have reason to believe, it has on neither side any other object in view than some arrangment suited to the prejudices of the pre-existing parties of that State. The publick papers say it respects the mode of appointing Representatives.

The letter from the Convention of that State was suppos'd to have suggested the mode of obtaining amendments that wo^d^ be most likely to succeed. After all the preparitory arrangments were carried for organizing the gov^t^, it was taken up here and approv'd. In consequence whereof an application was made to the Congress of the new gov^t^ to be presented when conven'd, to call a Convention for that purpose. The weight of business that wo^d^ devolve on the gov^t^ itself if no other consideration might occur was suppos'd a sufficient reason why this trust sho^d^ be repos'd in another body. It co^d^ in no event be productive of harm, for the discussion of subjects however important by the deliberative bodies of America, create little heat or animosity except with the parties on the theatre. The draft was revis'd and corrected by 300 . 1111 . Bland and partakes of his usual fire and elegance.

This Commonwealth was divided into 10 districts from each of which a member was to be plac'd in the House of Representatives—a competition took place in many, and in this, consisting of Albemarle, Amherst, Fluvanna Goochland

Louisa, Spotsylv[a] Orange and Culpeper, between M[r] Madison and myself. He prevail'd by a majority of about 300. It wo[d] have given me concern to have excluded him, but those to whom my conduct in publick life had been acceptable, press'd me to come forward in this gov[t] on its commencment, and that I might not loose an opportunity of contributing my feeble efforts, in forwarding an amendment of its defects nor shrink from the station those who confided in wo[d] wish to place me, I yielded. * * *

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[Jefferson Papers, series 2, vol. LXXIV, No. 32.]

W.. S. Smith to H. E. Tho[s] Jeffers[on]

Boston Feb[y] 15th 1789

* * * It is Generally believed here & in the middle states, that M[r] Adams will be the Vice President, he had the unanimous Vote of Massachusetts & New Hampshire & 5 out of 7 of the electors of Connecticut that he had not the whole there, originated from an apprehension, that if the state of Virginia should not vote for General Washington that M[r] A. would be President—which would not be consistant with the wish of the country and could only arise from the finese of antifœdral Electors with a View to produce confusion & embarass the operations of the Constitution, against which many have sett their faces, both in this & some of the other states, but with Ideas so different and in pursuit of such opposite projects, that I seriously believe, were they to meet in pursuit of amendments as they stile them, they would soon be convinced of the utter impossibility of an accomodation, for their systems are partial and have local objects in view, which if once permitted to gain

an establishment, will unavoidably check the great system & embarass the fœdral Legislature— * * *

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Ed. Carrington to The Honble Ja[s] Madison j[r] in Congress [Madison Papers, vol. XVI, p. 68.]

New York

Richmond Feb[y] 16. 1789

* * * * * * *

Accept my most cordial congratulations my good Friend upon your success in your Election—it is an event which I am convinced would not have taken place a fortnight sooner, had it been then tried, and I am equally well convinced, that had you staid away, it would not have happened at all * * * It is but justice for me to tell you, that in Goochland you are much indebted to Ronald—but for some explanations which he gave to the people at the preceeding Court, upon the misrepresentations of M[r] Guarrant, you would have had a great majority against you there—Ronald is now, and was during the Assembly, a decided & bold Federalist—He tells me he was equally decided in the Convention but that he thought it best to keep his sentiments to himself until he came to Vote.

Our Elections both of Electors & [mutilated]-sentatives throughout the State have [mutilated]-minated much better than we had reason a few months ago to expect—I am happy to find too that the measures of our Assembly upon the subject of the constitution meet with but little approbation even from Antifederalists—I think that things are taking an happy turn amongst the people.

[Letters to Washington, vol. LXXIII, p. 247.]

Gouv Morris to His Excellency Gen[l] Washington

Paris 23 Feb[y] 1789

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I will not have the Presumption to say any Thing about the Politics of this Country. M[r] Jefferson will doubtless convey the best Information on that Subject and you will I hope and beleive be (by the Time this Letter arrives) officially possest of his Communications. I say, I hope so and more (if possible) since I am here than before I left America. Our new Constitution has greatly raised our Reputation in Europe. But your Appointment and Acceptance would go far to fix the general Opinion. I will not, in this Place, discuss the Question whether Mankind is right or wrong in that universal Idea: but you who have so long been devoted to your Country ought not to be ignorant of the Fact. * * *

[Jefferson Papers, series 2, vol. I, No. 63.]

John Adams to M[r] Jefferson.

Braintree March 1. 1789

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In four days, the new Government is to be erected. Washington appears to have an unanimous Vote: and there is probably a Plurality, if not a Majority in favour of your Friend.—It may be found easier to give Authority, than to yeild Obedience. Amendments to the Constitution, will be expected and no doubt discussed. Will you be so good as to look over the Code and write me your Sentiments of Amendments which you think necessary or usefull? That greatest and most necessary of all Amendments the Seperation of the Executive Power, from the Legislative Seems to be better understood than it once was. without this our Government

is in danger of being a continual Struggle between a Junto of Grandees, for the first Chair.

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Miles King to [James Madison]

[Madison Papers, vol. XVI, p. 75.]

Virginia Hampton 3rd March 1789

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I hope Congress will take up the Amendments propos[d] by the States and do What is Necessary without there being a New Convention. I think Many of the Amendments are good & Necessary, but the great point of Direct Taxation will be of the Most Importance. When your Body Meets together and they should think it best for Congress to Retain that, I am perfectly Satisfy[d] they should Retain it I am very Willing to trust them, but Many of the Oppossers to the Goverment will not agree Congress should have that power, * * *

Th: Jefferson to W. Carmichael esq.

[Jefferson Papers, series 1, vol. III, No. 270. Press copy.]

Paris Mar. 4. 1789.

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I mentioned to you in my last that the Convention of Virginia had proposed to Congress the method of amending by Congress & the assemblies. since that the assembly of that state, a much more antifederal body, has proposed the other method of amendment by a federal convention. but this will not take. the elections for the new Congress are almost universally federal, which proves the people in general to be so. * * * N. Carolina has fixed a day for another convention, but a very distant one. it is the anti-

federalism of Virginia which levens that mass. Rhode island has again refused to call a convention. * * * the friends of the new constitution agree pretty generally to add a declaration of rights to it, and the opposition becomes daily weaker, so that the government, confided generally to friendly hands, and gaining on the esteem of the nation, begins, this very day, under the most auspicious appearances.

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[Washington Papers, Letter-book 9, p. 132. Transcript.]

G° Washington to The Honble Benjn Harrison

Mount Vernon March 9th 1789

* * * The reasons, My dear Sir, why I have not written to you for a long time, are two;—first, because I found it an insupportable task to answer the letters which were written to me, and, at the same time, to pay that attention to my private concerns which they required;–and, there being lately little besides politics worthy of notice, secondly, because I did not incline to appear as a partizan in the interesting subject that has agitated the public mind since the date of my last letter to you. For it was my sincere wish that the Constitution, which had been submitted to the People, might, after a fair and dispassionate investigation, stand or fall according to its merits or demerits.— Besides I found from disagreeable experience, that almost all the sentiments extracted from me in answer to private letters or communicated orally, by some means or another, found their way into the public Gazettes; as well as some other sentiments, ascribed to me, which never had an existence in my imagination.

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Th: Jefferson to M[r] F. Hopkinson

[Jefferson Papers, series 1, vol. III, No. 280. Press copy.]

Paris Mar. 13. 1789.

* * * you say that I have been dished up to you as an antifederalist, and ask me if it be just. my opinion was never worthy enough of notice to [merit citing: "be worth stating" stricken out]. but since you ask it I will tell it you. I am not a Federalist, because I never submitted the whole system of my opinions to the creed of any party of men whatever in religion, in philosophy, in politics, or in any thing else where I was capable of thinking for myself. such an addiction is the last degradation of a free and moral agent. if I could not go to heaven but with a party, I would not go there at all. therefore I protest to you I am not of the party of federalists. but I am much farther from that of the Antifederalists. I approved, from the first moment, of the great mass of what is in the new constitution the consolidation of the government, the organisation into Executive legislative & judiciary, the subdivision of the legislative, the happy compromise of interests between the great & little states by the different manner of voting in the different houses, the voting by persons instead of states, the qualified negative on laws given to the Executive which however I should have liked better if associated with the judiciary als as in New York, and the power of taxation. I thought at first that the latter might have been limited. a little reflection soon convinced me it ought not to be. what I disapproved from the first moment also was the want of a bill of rights to guard liberty against the legislative as well as executive branches of the government, ["by" stricken out] that is to say to secure freedom in religion, freedom of the press, freedom from monopolies, freedom from unlawful imprisonment, free-

dom from a permanent military, and a trial by jury in all cases determinable by the laws of the land. I disapproved also the perpetual reeligibility of the President. to these points of disapprobation I adhere. my first wish was that the 9. first conventions might accept the constitution, as the means of securing to us the great mass of good it contained, and that the 4. last might reject it, as the means of obtaining amendments. but I was corrected in this wish the moment I saw the much better plan of Massachusets and which had never occurred to me. with respect to the declaration of rights I suppose the majority of the United states are of my opinion: for I apprehend all the antifederalists, and a very respectable proportion of the federalists think that such a declaration should now be annexed. the enlightened part of Europe have given us the greatest credit for inventing this instrument of security for the rights of the people, and have been not a little surprised to see us so soon give it up. with respect to the re-eligibility of the president, I find myself differing from the majority of my countrymen, for I think there are but three states of the 11. which have desired an alteration of this. and indeed, since the thing is established, I would wish it not to be altered during the life of our great leader, whose executive talents are superior to those I beleive of any man in the world, and who alone by the authority of his name and the confidence reposed in his perfect integrity, is fully qualified to put the new government so under way as to secure it against the efforts of opposition. but having derived from our error all the good there was in it I hope we shall correct it the moment we can no longer have the same person at the helm. these, my dear friend, are my sentiments, by which you will see I was right

in saying I am neither federalist nor antifederalist; that I am of neither party, nor yet a trimmer between parties. these my opinions I wrote within a few hours after I had read the constitution, to one or two friends in America. I had not then read one single word printed on the subject. * * *

Th: Jefferson to M[r] Madison

Paris Mar. 15: 1789.

[Madison Papers, vol. XVI, p. 85. Jefferson Papers, series 1, vol. III, No. 285. Press copy.]

* * * your thoughts on the subject of the Declaration of rights in the letter of Oct. 17. I have weighed with great satisfaction. some of them had not occurred to me before, but were acknoleged just in the moment they were presented to my mind. in the arguments in favor of a declaration of rights, you omit one which has ["a" stricken out] great weight with me, the legal check which it puts into the hands of the judiciary. this is a body, which if rendered independent, & kept strictly to their own department merits great confidence for their learning & integrity. in fact what degree of confidence would be too much for a body composed of such men as Wythe, Blair & Pendleton? on characters like these the 'civium ardor prava jubentium' would make no impression. I am happy to find that on the whole you are a friend to this amendment. ["in fact" stricken out] the Declaration of rights is like all other human blessings alloyed with some inconveniences, and not accomplishing fully it's object. but the good in this instance vastly overweighs the evil. I cannot refrain from making short answers to the objections which your letter states to have been raised. ["made" stricken out]. 1. that the rights in question are reserved by the manner in which the federal powers are granted. answer. a constitutive act may certainly be

so formed as to need no declaration of rights. the act itself has the force of a declaration as far as it goes: and if it goes to all material points nothing more is wanting. in the draught of a constitution which I had once a thought of proposing in Virginia, & printed afterwards, I endeavored to reach all the great objects of public liberty, and did not mean to add a declaration of rights. probably ["the" written upon "my"] object was imperfectly executed: but the deficiencies would have been supplied by others in the course of discussion. but in a constitutive act which leaves some precious articles unnoticed, and raises implications against others, a declaration of rights becomes necessary by way of supplement. this is the case of our new federal constitution. this instrument forms us into one state as to certain objects, and gives us a legislative & executive body for these objects. it should therefore guard us against their abuses of power within the feild submitted to them. 2. a positive declaration of some essential rights could not be obtained in the requisite latitude. answer. half a loaf is better than no bread. if we cannot secure all our rights, let us secure what we can. 3. the limited powers of the federal government & jealousy of the subordinate governments afford a security which exists in no other instance. answer. the first member of this seems resolvable in- to the 1st objection before stated. the jealousy of the subordinate governments is a precious reliance. but observe that those governments are only agents. they must have principles furnished them whereon to found their opposition. the declaration of rights will be the text whereby they will try all the acts of the federal government. in this view it is necessary to the federal government also: as by the same text they may try the

opposition of the subordinate governments. 4. experience proves the inefficacy of a bill of rights. true. but tho it is not absolutely efficacious under all circumstances, it is of great potency always, and rarely inefficacious. a brace ^ ["weight" stricken out] the more will often keep up the building which would have fallen with that brace the less. There is a remarkable difference between the characters of the Inconveniencies which attend a Declaration of rights, & those which attend the want of it. the ["first" stricken out] inconveniences of the Declaration ["are" written upon "is"] that it may cramp government in it's useful exertions. but the evil of this is shortlived, moderate, & reparable. the inconveniencies of the want of a Declaration are permanent, afflicting & irreparable: they are in constant progression from bad to worse. the executive in our governments is not the sole, it is scarcely the principal object of my jealousy. the tyranny of the legislatures is the most formidable dread at present, and will be for long years. that of the executive will come in it's turn, but it will be at a remote period. I know there are some among us who would now establish a monarchy. ^ [illegible word stricken out]. but they are inconsiderable in number and weight of character. the rising race are all republicans. we were educated in royalism: no wonder if some of us retain that idolatry still. our young people are educated in republicanism. an apostacy from that to royalism is unprecedented & impossible. I am much pleased with the prospect that a declaration of rights will be added: and hope it will be done in that way which will not endanger the whole frame of the government, or any essential part of it.

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[Madison Papers, vol. XVI, p. 89.]

Tench Coxe to The hon. J. Madison Jr

Philad[a] March 18th 1789

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I have reflected since I had the pleasure of seeing you on the form of a declaration to be introduced into the constitution in favor of religious liberty, and I think the Idea of extending the powers of the union to an interposition between the state legislatures & their respective constituents might be accomplished, to universal satisfaction, by something like the 4th Sec. of the 4th Article relating to a republican form of Government—It would give great eclat to the constitution in Europe, and would give it an honest Triumph over the disingenuousness of those, who have opposed it on that score against their better knowlege. It is a little remarkable in how great a degree Events have justified some of the most censured powers of the plan. The non election of senators in ["Jersey—" stricken out] New York—the conduct of the Jersey election—and the suppression of the Senatorial negative in Maryland &c[a] may be adduced, at least among the candid & reflecting, as examples.

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[Jefferson Papers, series 1, vol. III, No. 291. Press copy.]

Th: Jefferson to Col[o] Humphreys

Paris Mar. 18. 1789.

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The operations which have taken place in America lately, fill me with pleasure. in the first place they realize the confidence I had that whenever our affairs get obviously wrong the good sense of the people will interpose and set them to rights. the example of changing a constitution by assembling the wise men of the state, instead of assembling

armies, will be worth as much to the world as the former examples we had given them. the constitution too which was the result of our deliberations, is unquestionably the wisest ever yet presented to men, and some of the accomodations of interest which it has adopted are greatly pleasing to me who have before had occasions of seeing how difficult those interests were to accomodate. a general concurrence of opinion seems to authorize us to say it has some defects. I am one of those who think it a defect that the important rights, not placed in security by the frame of the constitution itself, were not explicitly secured by a supplementary declaration. there are rights which it is useless to surrender to the government, and which yet, governments have always been fond to invade. these are the rights of thinking, and publishing our thoughts by speaking or writing: the right of free commerce: the right of personal freedom. there are instruments for administering the government, so peculiarly trust-worthy, that we should never leave the legislature at liberty to change them. the new constitution has secured these in the executive & legislative departments; but not in the judiciary. it should have established trials by the people themselves, that is to say by jury. there are instruments so dangerous to the rights of the nation, and which place them so totally at the mercy of their governors, that those governors whether legislative or executive, should be restrained from keeping such instruments on foot but in well defined cases. such an instrument is a standing army. we are now allowed to say ["such "the want of" stricken out] a declaration of rights, as a supplement to the constitution where that is silent, is wanting to secure us in these points. the general voice has legitimated this objection. it has not

however authorized me to consider as a real defect, what I thought and still think one, the perpetual re-eligibility of the president. but three states out of 11. having declared against this, we must suppose we are wrong according to the fundamental law of every society, the lex majoris partis, to which we are bound to submit. and should the majority change their opinion, & become sensible that this trait in their constitution is wrong, I would wish it to remain uncorrected as long as we can avail ourselves of the services of our great leader, whose talents and whose weight of character I consider as peculiarly necessary to get the government so under way as that it may afterwards be carried on by subordinate characters

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[Jefferson Papers, series 5, vol. XVI, No. 1. Press copy.]

Th: Jefferson to Admiral Paul Jones.

Paris Mar. 23. 1789.

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Our new constitution was acceded to in the course of the last summer by all the states except N. Carolina & Rhode island. Massachusets, Virginia and New York, tho they accepted unconditionally, yet gave it as a perpetual instruction to their future delegates never to cease urging certain amendments. N. Carolina insisted that the amendments should be made before she would accede. the most important of these amendments will be effected by adding a bill of rights; and even the friends of the Constitution are become sensible of the expediency of such an addition were it only to conciliate the opposition. in fact this security for liberty seems to be demanded by the general voice of America, &

we may conclude it will unquestionably be added. N. York, Virginia & N. Carolina have also demanded that a term be fixed after which the president shall be no longer eligible. but the public has been silent on this demand; so we may doubt it's success. in the mean time the elections for the new government were going on quietly at the date of our last letters. we have the names of most of the Senators; but not of the representatives. there was no question but Gen[l] Washington would be elected President; and we know that he would accept it, tho' with vast reluctance. the new Congress was to meet the 1st Wednesday in this month, at New York. the tickets of election of the President would then be opened, and I presume that General Washington is now at New York, and the new legislature in a course of business. the only competitors for the Vice presidentship were m̃r J. Adams & m̃r Hancock. it was thought the former would be chosen. tho' the new constitution was adopted in 11. states, yet in those of Massachusets, Virginia & New York it was by very small majorities; & the minorities in the two last are far from the laudable acquiescence of that of Massachusets. Gov[r] Clinton in New York, & m̃r Henry in Virginia are moving heaven and earth to have a new Convention to make capital changes. but they will not succeed. there has been just opposition enough to produce probably further guards to liberty without touching the energy of the government, and this will bring over the bulk of the opposition to the side of the new government.

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[Madison Papers, vol. XVI, p. 95.]

Charles Pinckney to [James Madison]

Charleston March 28: 1789.

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I will begin by saying what I am sure you will believe, that I am much pleased to find you in the federal Legislature.—I did expect you would have been in the senate & think your state was blind to it's interests in not placing you there,—but where you are may in the event prove the most important situation.—for as most of the ["important" stricken out] acts which are to affect the Revenue of the Union must originate with your house, and as they are the most numerous body, a greater scope will be afforded for the display of legislative talents than in the other branch, whose radical defect is the smallness of their numbers & whose doors must be always shut during their most interesting deliberations . . . .

It will be some time perhaps before I hear of you, but when you write, answer me candidly as I am sure you will the following Queries, without suffering any little disappointment to yourself to warp your opinion—

Are you not, to use a full expression, abundantly convinced that the theoretical nonsense of an election of the members of Congress by the people in the first instance, is clearly and practically wrong.—that it will in the end be the means of bringing our councils into contempt & that the legislature are the only proper judges of who ought to be elected? — —

Are you not fully convinced that the Senate ought at least to be double their number to make them of consequence & to prevent their falling into the same comparative state of

insignificance that the state Senates have, merely from their smallness?—

Do you not suppose that giving to the federal Judicial retrospective jurisdiction in any case whatsoever, from the difficulty of determining to what periods to look back—from it's being an ex post facto provision, & from the confusion & opposition it will give rise to, will be the surest & speediest mode to subvert our present system & give it's adversaries the majority?— — Do not suffer these and other queries I may hereafter put to you, to startle your opinion with respect to my principles.—I am more than ever a friend to the federal constitution,—not I trust from that fondness which men sometimes feel for a performance in which they have been concerned but from a conviction of it's intrinsic worth.—from a conviction that on it's efficacy our political welfare depends.—my wish is to see it divested of those improprieties which I am sure will sooner or later subvert, or what is worse bring it into contempt— —

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Ra.. Izard to The Hon̄ble Thoˢ Jefferson.

Charleston 3ᵈ April 1789.

[Jefferson Papers, series 2, vol. XLVI, No. 9.]

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Every Man of common Sense, & common affection for America must be strongly affected by the consideration of the humiliating state into which we are plunged. The evil has arisen principally from the want of an efficient, & energetic Government, pervading every part of the United States. By whatever appellation therefore Gentlemen may

choose to be distinguished; whether by federal, or antifederal, I hope we shall not be wasting time with Idle discussions about amendments of the Constitution; but that we shall go to work immediately about the Finances, & endeavour to extricate ourselves from our present embarrassed, & disgraceful situation. * * *

[Madison Papers, vol. IV, p. 84.]

J^s^ Madison Jr to [Edmund Pendleton]

New York April 8th 1789.

You will not learn without some surprise that the sixth of this month arrived before a quorum was made up in both branches of the New Legislature, and the first of the month, before a Quorum was attained in either. * * *

* * * The subject of amendments has not yet been touched. From appearances there will be no great difficulty in obtaining ["r" written upon "th" erased]easonable ones. It will depend however entirely on the temper of the federalists, who predominate as much in both branches, as could be wished. Even in this State, notwithstanding the violence of its antifederal symtoms, three of its six representatives at least will be zealous friends to the Constitution; and it is not improbable that a fourth will be ["chosen" stricken out] of the same description.

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[Madison Papers, vol. IV, p. 85.]

J^s^ Madison Jr. to Edmund Randolph Esqr Williamsburg Virginia

New York April 12. 1789.

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On the subject of amendments nothing has been publickly and very little privately said. Such as I am known

to have espoused, will as far as I can gather, be attainable from the federalists, who sufficiently predominate in both branches; though with some, the concurrence will proceed from a spirit of conciliation rather than conviction. Connecticut is least inclined though I presume not inflexibly opposed, to a moderate revision. A paper wch will probably be republished in the Virg^a^ Gazettes, under the signature of a Citizen of New Haven, unfolds Mr Shermans opinions. Whatever the amendments may be it is clear that they will be attempted in no other way than thro' Congress. Many of the warmest of the opponents of the Gov^t^ disavow the mode contended for by Virginia.

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Tench Coxe to The hon. James Madison Jr Esqr in Congress New York

[Madison Papers, vol. XVI, p. 107.]

Philad^a^ April 21st 1789

Having for some time felt a great deal of anxiety about the consequences to the United States, which appear likely to rise out of the Affairs of the Western Country I have turned my attention a good deal to considering that Subject, and as I know you also have had a very great solicitude about it I shall trouble you with such thoughts or facts relating to it as I think may possibly be of use.

It is very certain that the attention paid by the old Government to the Overtures of Spain, and the resolutions relative to the Navigation of the Missisipi were improper, and, in principle, dangerous in a free country—they were therefore ["impolitic" unjustifiable stricken out] in ours, and impolitic in the highest degree considering the lax & feeble cords by which the temper & situation of the Western people bind them to

us. It is but reasonable that they should be alarmed—that they should doubt our justice and regard for those rights, which, whether the eastern or western people are the claimants, are not to be dispensed with, or infringed. Tis manifest that such doubts and apprehensions have been excited by the measures of Congress, and it is very certain that the hesitation about the new Constitution in that quarter arose in a greater part from those causes, than from any faults they found in it as a System of Government— * * *

To allay their fears we must candidly examine the conduct that has offended them—and frankly give them efficient securities for our refraining from such Attempts in future. A part of the ideas in the 2d division of the 7th Amendment of Virginia might perhaps be safely modified and adopted, if the subject of Amendments is touched. A Majority of every legislature in the Union would I am of Opinion ratify such an Amendment should Congress send it forward. Frankly to remove fears and do justice always revives confidence & encreases affection—and I am satisfied the measure proposed would have that effect in an eminent degree on a people governed exceedingly by their feelings, and whose situation seperates them from all the world but their relatives on the one hand, & two powers whom they either despise or dislike on the other. * * *

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Speech of the President of the United States—To both Houses of Congress—30th of April 1789— [Washington Papers, Letter-book 17, p. 23. Transcript.]

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Besides the ordinary objects submitted to your care, it will remain with your judgment to decide, how far an exercise of the occasional power delegated by the fifth article of the Constitution is render'd expedient at the present juncture, by the nature of objections which have been urged against the System, or by the degree of inquietude which has given birth to them.—Instead of undertaking particular recommendations on this subject, in which I could be guided by no lights derived from official opportunities, I shall again give way to my entire confidence in your discernment and pursuit of the public good—For I assure myself that whilst you carefully avoid every alteration which might endanger the benefits of an United and effective government or which ought to await the future lessons of experience; a reverence for the characteristic rights of freemen, and a regard for the public harmony will sufficiently influence your deliberations on the question, how far the former can be inpregnably fortified or the latter be safely and advantageously promoted—

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Th: Jefferson to Mr Littlepage [Jefferson Papers, series 1, vol. III, No. 308. Press copy.]

Paris May 8. 1789.

Your favor of Feb. 12. has been duly received, and in exchange for it's information, I shall give you that which you desire relative to American affairs. those of Europe you can learn from other sources. all our states acceded

unconditionally to the new constitution except N. Carolina & Rhode island. the latter rejects it in toto. N. Carolina neither rejected nor received it, but asked certain amendments before it should receive it. her amendments concur with those asked by Virginia, N. York & Massachusets, and consist chiefly in a Declaration of rights. even the warmest friends to the new form begin to be sensible it wants this security, and it is pretty generally agreed that a declaration of rights shall be added. N. York and Virginia, tho' they have acceded to this government are less contented with it than the others. in N. York it is the effect of the intrigues & influence of Governor Clinton who it is hoped will be exchanged for a judge Yates. in Virginia it is perhaps the apprehension that the new government will oblige them to pay their debts. * * *

[Letters to Washington, vol. CXV, p. 125. Washington Papers, Letter-book 17, p. 31. Transcript.]

The address of the House of Representatives to George Washington, President of the UNITED STATES.

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The question arising out of the fifth article of the Constitution, will receive all the attention demanded by its importance; and will, we trust be decided, under the influence of all the considerations to which you allude.

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[Madison Papers, vol. XVI, p. 119.]

Hu Williamson to Honble James Madison

Edenton 21st May 1789

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Our People near the Sea Coast are in great Pain on the Idea of being shut out ["o" stricken out]from the Union. They say that unless they can continue in the Coasting

Trade without the Alien Duty they must starve with their Families or remove from the State. Can no Exception be made in favour of such apparent Aliens for so long as to the first of Jany next?

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Benjamin Hawkins to Mr Madison

[Madison Papers, vol. XVI, p. 123.]

Warren the 1st June 1789.

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A circumstance trivial indeed, but from its effect here, important, deserves to be told The opponents had predicted that Congress being once possessed with power, the friends to the new Government would never consent to make any amendments, your motion on that great and delicate subject directly contradicts it. And they swear that they will never forget Bland, Grayson and their other friends for suffering any business however important to be done in Congress prior to the subject of amendments, and moreover for suffering this important prophecy by their tardiness to be contradicted

If you can do somthing by way of amendment without any material injury to the system, I shall be much pleased, and as far as I can learn it will be pleasing to my countrymen, or a majority of them I mean, we certainly are more friendly than we were at the meeting of our Convention, several counties who were much opposed to it, are now decidedly very friendly, and I count ["pretty certainly" stricken out] on its being adopted at our next convention.

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[Madison Papers, vol. XVI, p. 127.]

William R. Davie to [James Madison]

Halifax N° Carolina June 10th 1789.

My private acquaintance with you would by no means warrant a correspondence of this kind, but the interest we have in your public character and exertions will sufficiently apologize for the freedom.

You are well acquainted with the political situation of this State, its unhappy attachment to paper money and that wild scepticism which has prevailed in it since the publication of the Constitution. It has been the uniform cant of the enemies of the Government, that Congress would exert all their influence to prevent the calling of a convention, and would never propose an amendment themselves, or consent to an alteration that would in any manner diminish their powers. The people whose fears had been already alarmed, have received this opinion as fact, and become confirmed in their opposition; your notification however of the 4th of May has dispersed almost universal pleasure, we hold it up as a refutation of the gloomy prophecies of the leaders of the opposition, and the honest part of our antifederalists have publicly expressed great satisfaction on this event. Our Convention meet again in November, with powers to adopt the Constitution and any amendments, that may be proposed; this renders it extremely important that the amendments, if any, should be proposed before that time—and although we may be nominally a foreign State, yet I hope the alterations will come officially addressed to the people of this country, an attention however trifling in itself, that will be of importance in the present state of the public mind here.

That farrago of amendments borrowed from Virginia is by no means to be considered as the sense of this country; they

were proposed amidst the violence and confusion of party heat, at a critical moment in our Convention, and adopted by the opposition without one moment's consideration—I have collected with some attention the objections of the honest and serious—they are but few and perhaps necessary—they require some explanation rather than alteration of the power of Congress over elections—an abridgement of the jurisdiction of the federal Court in a few instances, and some fixed regulations respecting appeals—they also insist on the trial by jury being expressly secured to them in all cases—and a constitutional guaruntee for the free exercise of their religious rights and privileges—the rule of representation is thought to be too much in the power of Congress—and the Constitution is silent with respect to the existing paper money an important and interesting property. Instead of a Bill of rights attempting to enumerate the rights of the individual or the State Governments, they seem to prefer some general negative ["as will" stricken out] confining Congress to the exercise of the powers particularly granted, with some express negative restriction in some important cases.—I am extremely anxious to know the progress of this delicate and interesting business; and if you could find leisure from the duties of office and the obligations of Friendship to give me some information on this subject, it might perhaps be of some consequence to this country, and would in any event be gratefully acknowledged

25981—Bull. 11—Pt. 2—03——12

[Madison Papers, vol. XVI, p. 134.]

Tench Coxe to [James Madison]

Philad[a] June 18th 1789.

I observe you have brought forward the amendments you proposed to the federal Constitution. I have given them a very careful perusal, and have attended particularly to their reception by the public. The most decided friends of the constitution admit (generally) that they will meliorate the government by removing some points of litigation and jealousy, and by heightening and strengthening the barriers between necessary power and indispensible liberty. In short the most ardent & irritable among our friends are well pleased with them. On the part of the opposition I do not observe any unfavorable animadversion. Those who are honest are well pleased at the footing on which the press, liberty of conscience, original right & power, trial by jury &c[a] are rested—Those who are not honest have hitherto been silent, for in truth they are stript of every rational, and most of the popular arguments they have heretofore used. I will not detain you with further remarks, but feel very great satisfaction in being able to assure you generally, that the proposed amendments will greatly tend to promote harmony among the late contending parties and a general confidence in the patriotism of Congress. It has appeared to me that a few well tempered observations on these propositions might have a good effect. I have therefore taken an hour from my present Engagements, which on account of my absence are greater than usual, and have thrown together a few remarks upon the first part of the Resolutions. I shall endeavour to pursue them in one or two more short papers. It may perhaps be of use in the present turn of the public opinions in New York state that they

should be republished there. It is in fed. Gazette of 18th instant—

At some future day I should wish the powers of the general government extended to the declaring in what places canals may be cut, without giving them the power of providing for the expence, but at present this would be a dangerous Idea. I much doubt whether the federalists of N. Car[a] would consent to adopt the constitution, if it contained such a power. You will see however infinite advantages, both pecuniary & political in a canal at the dismal Swamp in Virginia, and another at the head of the Delaware peninsula.

[A copy of this paragraph in Madison's handwriting is in Madison Papers, vol. XVI, p. 133.]

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J[s] Madison Jr. to M[r] Pendleton. Bolling Green Virginia
N. York June 21. 1789.

[Madison Papers, vol. IV, p. 96.]

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M[r] Page tells me he has forwarded to you a copy of the amendments lately submitted to the H. of Rep[s] They are restrained to points on which least difficulty was apprehended. Nothing of a controvertible nature ought to be hazarded by those who are sincere in wishing for the approbation of ⅔ of each House, and ¾ of the State Legislatures.

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J Dawson to [James Madison]
Frdksburg June 28. 1789

[Madison Papers, vol. XVI, p. 139.]

You will be pleas'd to accept my thanks for the Journals receivd a few days since by M[r] Hopkins, from whom I learnt the different subjects which engage the attention of Congress and the variety of opinions on some of them.

You have it in contemplation, I hear, to adjourn in August— surely you will not do this without recommending those alterations which have been so ardently desird by many of the States, most of which will not materially effect the system; but will render it more secure, and more agreable in the eyes of those who were oppos'd to its establishment.—I rejoice to find that you come forward at an early day with a proposition for amendments, altho I coud have wish'd they had been more extensive— experience, as well as sound policy point out, in my humble opinion, the propriety of the amendment propos'd by this State for rendering more secure our Western Territory, & for guarding against the danger of the surrender of the Mississippi—that in the commercial regulations there will be efforts in the one part of the Continent to throw the weight of the [duties "taxes" stricken out] on the other, is apprehended by many and therefore the amendment propos'd to this part of the system is thought to be of importance.

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[Letters to Washington, vol. LXXIV, p. 79.]

Henry Lee to George Washington President of the United States New York

Stratford July 1st 1789

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To give complete success to your administration, ["it" stricken out] appears to me impracticable, unless national harmony is soon restored. The political schism which divides our countrymen is I fear deep planted in the minds of many leading characters, & however respect to a majority & affection to the president may quiet them now, yet on the first inviting occasion the spirit of opposition will shew itself strongly

To deprive it of the means of operating with effect should be I conceive the leading object of the friends to gov^{t}—It is practicable to prevent your enemy from injuring you altho it may be impossible to render him your friend—

Therefore instead of striving to court the good will of opposition by improper concessions, I would disarm them by complying with the rational views of the advocates for amendments spontaneously. The house of representatives to whom these remarks apply, if they follow the plan which seems to be contemplated by some of their members will I think accomplish this great good.

If it is not done under your auspices, it will never be effected, & if never effected we shall be a divided distressed people—

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Benjamin Hawkins to Mr Madison [Madison Papers, vol. XVI, p. 124.]

Warren the 3rd June 1789

I arrived a few days past from Wilmington, and had an opportunity of hearing the sentiments of a number of people in five counties through which I traveled who were originally opposed to the new government. They have, most of them, changed their opinions, and are now friendly to it.

I am anxious to know the fate of your attempt to mend the constitution, and whether anything can, with certainty, be done that will conciliate its opponents. If it should appear in the investigation that there are difficulties greater than you seem to apprehend, I wish that the subject could be postponed 'till after the meeting of our Convention.

The opponents here will, I expect, avail themselves of every thing to strengthen their party.

The Resolution of the assembly of Pennsylvania respecting the circular letter from the Legislature of Virginia certainly does them great credit, and altho' I approve it in toto, yet If somthing can be done without a material alteration of the system I hope their senators & representatives would readily assist.

We have in this State a strong predilection for paper money, our folly buoys us above experience, and will in the end prove ruinous to many of our citizens. The first emission of our money (£100.000 depretiated to 10/. the second (£100.000) depreciated the whole sum to 16/. the dollar. Most of our debts for the last two years to the merchants have been at from 500 to 600 P Cent currency on sterling, and those and credit sales at from 16/ to 20/ the dollar. Our sinking fund meeting no encroachment has reduced our paper to £150.000. and money has appretiated, at ready money sales by sheriffs and constables; it is some times at 9/ and often at par. This great appretiation alarms the debtors and will probably enduce a dislike to the general government from a conviction that gold or silver only must be sought for in payment of debts.

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[Jefferson Papers, series 2, vol. LXXIX, No. 42.]

Jn° Trumbull to [Thomas Jefferson]

London 14th July 1789.

The Bill to regulate the Collection of Impost, has the following clause—"And Whereas the States of Rhode Island "& North Carolina have not yet acceded to the present Con- "stitution of the U S. & therefore are not subject to the laws "made under that Constitution: Be it further enacted by "the Authority &c—That untill, the said States shall have

"adopted the s^d^ Constitution all goods, wares & merchandize,
"not the growth production or manufacture of the s^d^ States,
"which shall be imported from either of the s^d^ States, into
"any other of the U. S. shall be subjected to the same duties
"as goods imported from foreign countries & the s^d^ Duties
"shall be collected thereon, in the same manner as is pro-
"vided by this Act for the Collection of duties on goods
"imported from foreign States.'

State of R. Island &^c^—
in General Assembly, May session.

An Act for levying & collecting certain duties & imposts within this State—

Whereas Eleven of the States, belonging to the late confederation of the U. S. have organiz'd themselves into a new confederacy, & are preparing by their general Legislature to levy & collect sundry duties & imposts on goods, wares & merchandizes imported from foreign parts: And whereas it hath become necessary for this State to take some effectual measures for the levying & collecting of similar duties & imposts within this State, to be placed in the Treasury thereof for similar purposes.

Be it enacted &c That the same duties & imposts, whether by p^r^ C^t^ advalorem, or on specified articles, or otherwise be levied & collected upon all goods, &c &c, imported into this State, whether by land or water, as may be order'd to be levied & collected on similar goods &c, &c, imported either by land or water into any of the s^d^ Eleven States, by the general Legislature, by any Laws &c &c to be by them made —— & that the several officers appointed for collecting the imposts heretofore levied in this State, be

authorised &c to carry this Act into effectual execution at, & from the same time appointed or to be appointed by the s^{d} Legislature of the Eleven States, for beginning to collect the s^{d} Duties &c in the s^{d} States,—& on the principles & terms of the s^{d} Acts of the Eleven States—mutatis mutandis.

& Be it further enacted, That the Duties & imposts hereby requir'd to be levied as aforesaid, in this State—shall be paid in the same kind of monies or other things, in which the Duties &c to be levied & collected in the Eleven States shall be payable

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Perhaps you have the foregoing already but its better to have duplicates, than no information at all.—I enclose a scrap of a Newspaper which gives you the character & temper of R Island— I find no other matter worth your notice—the June packet not arriv'd.—

You will pardon my enclosing a letter for Mr Cutting.

[ENCLOSURE.]

[Newspaper clipping.]

Extract of a letter from the state of Rhode-Island, dated May 23, 2789.

"The enemies of the Federal government, triumph more than ever in this state, since the bill passed the House of Representatives of Congress, for levying a duty on all foreign merchandize, exported from this to any other state. As that bill exempts articles that are the growth and manufacture of this state, from being subject to imposts, it places the farmers, who are generally antifederalists, in such a situation as they have wished. They now derive all the advantages that the newgovernment is capable of producing

by encouraging the sale of domestic articles; while they are not exposed to any of its inconveniences.—In addition to this reason, they are exceedingly gratified at such a stroke levelled at the mercantile interest. The legislature of this state have laid duties similar to what Congress impose. Our merchants therefore pay duties at home in the first instance, and afterwards in the state to which they export such goods. This operates peculiarly hard, and will, I fear, be a means of hindering our majority from consenting to have a convention called, as they take pleasure in seeing the merchants crushed. They say they have greater advantages without entering into the union, than they could derive by becoming a member of of it. I hope Congress will consider our situation and put the different classes of people in this state in a predicament equally disagreeable, by subjecting domestic articles to a similar imposition as they do foreign, that are exported from this to any other state. Such a measure would soon draw our obstinate majority into the views of honesty, and the United States."

Jn° Trumbull to Mr Jefferson

London July 21st 1789.

[Jefferson Papers, series 2, vol. LXXIX, No. 43.]

On the other side you have the only articles of interesting intelligence which I can find in Boston Papers so late as the 15th June— * * *

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Thursday 11th June having been appointed for the General Assembly of R Island, agreeable to a resolve of the last session, to take into consideration a motion made for calling a Convention to adopt the new Constitution.—the same was accordingly taken up, and after the matter was discussed, the vote was taken & there appeard a majority

of Eleven against calling a Convention:—— A Motion for repealing the Tender Law was also made & taken into consideration, & passed also in the Negative by a majority of seven.

The same day Governor Collins of R I. publishd a proclamation prohibiting the exportation of Corn or Flour of every kind, from that State, on penalty of forfeiture of the articles & twice their value.—

4th of June—in Congress—Mr Benson mov'd that the House should then form itself into a committee of the whole, & take into consideration the propos'd resolution respecting R. Island: (of which you have a Copy this occasion'd a short discussion, when the previous question was mov'd.—which pass'd in the negative, & the proposd resolution was lost—

[Madison Papers. Prints, vol. I, p. 34.]

CONGRESS OF THE UNITED STATES.

In the HOUSE *of* REPRESENTATIVES,

Tuesday, the 28th of July, 1789.

MR. VINING, *from the Committee of eleven, to whom it was referred to take the subject of* AMENDMENTS *to the* CONSTITUTION *of the* UNITED STATES, *generally into their consideration, and to report thereupon, made a report, which was read, and is as followeth:*

IN the introductory paragraph before the words, "*We the people*," add, "Government being intended for the bene- "fit of the people, and the rightful establishment thereof "being derived from their authority alone."

ART. 1, SEC. 2, PAR. 3—Strike out all between the words,

"*direct*" and "*and until such*," and instead thereof insert, "After the first enumeration there shall be one represen- "tative for every thirty thousand until the number shall "amount to one hundred; after which the proportion shall "be so regulated by Congress that the number of Represen- "tatives shall never be less than one hundred, nor more than "one hundred and seventy-five, but each State shall always "have at least one Representative."

ART. 1, SEC. 6—Between the words "*United States*," and "*shall in all cases*," strike out "*they*," and insert, "But no "law varying the compensation shall take effect until an "election of Representatives shall have intervened. The "members."

ART. 1, SEC. 9—Between PAR. 2 and 3 insert, "No religion "shall be established by law, nor shall the equal rights of "conscience be infringed."

"The freedom of speech, and of the press, and the right of the people peaceably to assemble and consult for their common good, and to apply to the government for redress of grievances, shall not be infringed."

"A well regulated militia, composed of the body of the people, being the best security of a free State, the right of the people to keep and bear arms shall not be infringed, but no person religiously scrupulous shall be compelled to bear arms."

"No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law."

"No person shall be subject, except in case of impeach- ment, to more than one trial or one punishment for the same offence, nor shall be compelled to be a witness against him-

self, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation."

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

"The right of the people to be secure in their person, houses, papers and effects, shall not be violated by warrants issuing, without probable cause supported by oath or affirmation, and not particularly describing the places to be searched, and the persons or things to be seized."

"The enumeration in this Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

ART. 1, SEC. 10, between the 1st and 2d PAR. insert, "No State shall infringe the equal rights of conscience, nor the freedom of speech, or of the press, nor of the right of trial by jury in criminal cases."

ART. 3, SEC. 2, add to the 2d PAR. "But no appeal to such court shall be allowed, where the value in controversy shall not amount to one thousand dollars; nor shall any fact, triable by a Jury according to the course of the common law, be otherwise re-examinable than according to the rules of common law."

ART. 3, SEC. 2—Strike out the whole of the 3d paragraph, and insert—"In all criminal prosecutions the accused shall "enjoy the right to a speedy and public trial, to be informed "of the nature and cause of the accusation, to be confronted "with the witnesses against him, to have compulsory process "for obtaining witnesses in his favor, and to have the assist- "ance of counsel for his defence."

"The trial of all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the

militia, when in actual service in time of war or public danger) shall be by an impartial jury of freeholders of the vicinage, with the requisite of unanimity for conviction, the right of challenge and other accustomed requisites; and no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment by a Grand Jury; but if a crime be committed in a place in the possession of an enemy, or in which an insurrection may prevail, the indictment and trial may by law be authorized in some other place within the same State; and if it be committed in a place not within a State, the indictment and trial may be at such place or places as the law may have directed."

"In suits at common law the right of trial by jury shall be preserved."

"Immediately after ART. 6, the following to be inserted as ART. 7."

"The powers delegated by this Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or the Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive."

"The powers not delegated by this Constitution, nor prohibited by it to the States, are reserved to the States respectively."

ART. 7 to be made ART. 8.

Extract from the Journal,

JOHN BECKLEY, CLERK.

[NEW-YORK, PRINTED BY THOMAS GREENLEAF.]

[Madison Papers, vol. XVII, p. 12.]

[Reverend] J Madison to [James Madison]

Aug. 15th 1789

* * * * * * *

That ye Business of Amendments has been entered upon in so dispassionate a Manner must afford real Satisfaction to every Friend to ye Union.—Some of those proposed appear to be important, at least in removing ye Objections [“from” stricken out] of many of ye Opponents to ye Constitution; tho' I do not observe that ye Commee has proposed such as appear of ye first Magnitude. Would it not be adviseable to seize the present Moment to render ye Constitution more perfect in the more essential Parts–; or to do away those Defects, wch it's warmest Friends admit, [“require” stricken out] must eventually if continued, render ye Govt less prosperous– Suppose, for Instance, that ye Union of ye Legislative & Executive Powers was entirely done away— & that ye Executive, or cheif Magistrate, had his Council with whom he shd always consult & not with a Branch of ye Legislature—Let ye Senate be entirely confined to ye Object of Legislation—, let not one of it's Members be [“the” stricken out] styled Vice-Presidt — But let ye Senior Councillor transact ye necessary Business in Case of Inability— or Absence of a President—I wd not wish to weaken ye Hands of ye Executive, or diminish ought of ye Powers assigned by the Constitution, but I think they might be modelled anew in a Manner, wh wd promise more Stability & Prosperity to ye Genl Govt — Other Improvements of perhaps a more important Nature may have occurred to you, who have so long & so deeply reflected upon ye Subject; and if it were not presumptuous to advise one who will always be directed by ye most enlightened & patriotic

Views, I w^d recommend ye present Moment as ye most proper to attempt ye Introduction of them.—

Defects themselves ["gain" stricken out] gain Strength & Respect by Time—W^d it not then be better to expose fully, & in ye Manner of w^h you are so capable, those Alterations w^h are necessary, or wch w^d in Theory render ye Gov^t more perfect. The first Object sh^d be to render ye Theory as perfect as possible—: if ye Theory be such, ye Practice will be correspondent. Principles ["cannot be" stricken out] wch are true in Theory, cannot fail in ye Execution of them.—Besides such an Exposition of those Alterations wch w^d really render ye Gov^t more perfect, if they were not adopted at present, w^d at least have this important Effect: it w^d fix the public Mind upon those great & necessary Improvents; it w^d thus be gradually prepared for them, & Time might bring about, what ye Spirit of Faction ["may" written upon "might"] now prevent—I hope then, as you have begun, you will compleat, or attempt to compleat ye arduous Task—.

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J^s Madison Jr to Edmund Randolph Esqr Williamsburg Virginia

[Madison Papers, vol. IV, p. 103.]

N. Y. Aug. 21. 89.

For a week past the subject of amend^ts has exclusively occupied the H. of Rep^s Its progress has been exceedingly wearisome not only on account of the diversity of opinions that was to be apprehended, but of the apparent views of some to defeat by delaying a plan short of their wishes, but likely to satisfy a great part of their companions in opposition throughout the Union. It has been absolutely

necessary in order to effect any thing, to abbreviate debate, and exclude every proposition of a doubtful & unimportant nature. Had it been my wish to have comprehended every amend[t] recomended by Virg[a] I should have acted from prudence the very part to which I have been led by choice. Two or three contentious additions would even now frustrate the whole project.

* * * * * * *

I find ["that" stricken out] in looking over ["your" stricken out] the notes of your introductory discourse in the Convention at Philad[a] that it is not possible for me to do justice to the substance of it. I am anxious for particular reasons, to be furnished with the means of preserving this as well as the other arguments in that body, and must beg that you will make out & forward me the scope of your reasoning. You have your notes I know & from these you can easily deduce the argument on a condensed plan. I make this request with an earnestness w[ch] will not permit you either to refuse or delay a compliance.

[Madison Papers, vol. XVII, p. 17.]

Richard Peters to H[ble] M[r] Maddison. in Congress

New York

Belmont Aug[t] 24. 1789

I have to acknowledge your Favour of the 19th I am obliged by your Information & acknowledge that some of your Reasons are the best that can be given. They are such therefore as I knew you could give. But many of them are founded on Apprehensions which forgive me for saying I think too highly wrought. I believe that a Firmness in adhering to our Constitution 'till ["at" written upon "it"] least it had a longer Trial would have silenced Antifederal-

ists sooner than ["by" stricken out] magnifying their Importance by Acknowledgments on our Part & of ourselves holding up a Banner for them to rally to. All you offer comes not up to their Desires & as long as they have one unreasonable Wish ungratified the Clamour will be the same. I know there are among them good Characters but many of those who lead do it not from other Motives than to make or keep themselves Heads of a Party. Our Character abroad will never acquire Consistency while [Foreigners "they" stricken out] see us wavering even in our Government about the very Instrument under which that Government acts. In short I fear worse Consequences from the good Disposition of the Conciliators (especially now when some Things done by Congress have startled even many Federalists) than I apprehend from an Adherence to the System. But I have agreed with myself not to enter far into a Subject which you have so long considered. * * *

CONGRESS OF THE UNITED STATES.

[Madison Papers. Prints, vol. I, p. 34.]

In the HOUSE *of* REPRESENTATIVES,

Monday, 24th August, 1789,

RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, two thirds of both Houses deeming it necessary, That the following Articles be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States, all or any of which Articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes as part of the said Constitution—Viz.

ARTICLES in addition to, and amendment of, the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

ARTICLE THE FIRST.

After the first enumeration, required by the first Article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred, after which the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor less than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred, after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor less than one Representative for every fifty thousand persons.

ARTICLE THE SECOND.

No law varying the compensation to the members of Congress, shall take effect, until an election of Representatives shall have intervened.

ARTICLE THE THIRD.

Congress shall make no law establishing religion or prohibiting the free exercise thereof, nor shall the rights of Conscience be infringed.

ARTICLE THE FOURTH.

The Freedom of Speech, and of the Press, and the right of the People peaceably to assemble, and consult for their common good, and to apply to the Government for a redress of grievances, shall not be infringed.

ARTICLE THE FIFTH.

A well regulated militia, composed of the body of the People, being the best security of a free State, the right of the People to keep and bear arms, shall not be infringed, but no one religiously scrupulous of bearing arms, shall be compelled to render military service in person.

ARTICLE THE SIXTH.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE THE SEVENTH.

The right of the People to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE THE EIGHTH.

No person shall be subject, except in case of impeachment, to more than one trial, or one punishment for the same offence, nor shall be compelled in any criminal case, to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE THE NINTH.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with

the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

ARTICLE THE TENTH.

The trial of all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia when in actual service in time of War or public danger) shall be by an Impartial Jury of the Vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accostomed requisites; and no person shall be held to answer for a capital, or otherways infamous crime, unless on a presentment or indictment by a Grand Jury; but if a crime be committed in a place in the possession of an enemy, or in which an insurrection may prevail, the indictment and trial may by law be authorised in some other place within the same State.

ARTICLE THE ELEVENTH.

No appeal to the Supreme Court of the United States, shall be allowed, where the value in controversy shall not amount to one thousand dollars, nor shall any fact, triable by a Jury according to the course of the common law, be otherwise re-examinable, than according to the rules of common law.

ARTICLE THE TWELFTH.

In suits at common law, the right of trial by Jury shall be preserved.

ARTICLE THE THIRTEENTH.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE THE FOURTEENTH.

No State shall infringe the right of trial by Jury in criminal cases, nor the rights of conscience, nor the freedom of speech, or of the press.

ARTICLE THE FIFTEENTH.

The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE THE SIXTEENTH.

The powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

ARTICLE THE SEVENTEENTH.

The powers not delegated by the Constitution, nor prohibited by it, to the States, are reserved to the States respectively.

Teste,

JOHN BECKLEY, CLERK.

In SENATE, *August* 25, 1789.

Read and ordered to be printed for the consideration of the Senate.

Attest, SAMUEL A. OTIS, SECRETARY.

NEW-YORK, PRINTED BY T. GREENLEAF, near the COFFEE-HOUSE.

[Madison Papers, vol. XVII, p. 22. Jefferson Papers, series 1, vol. III, No. 362. Press copy.]

Th: Jefferson to Mr Madison.

Paris Aug. 28. 1789.

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I must now say a word on the declaration of rights you have been so good as to send me. I like it as far as it goes; but I should have been for going further. for instance the following alterations & additions would have pleased me. Art. 4. 'the people shall not be deprived or abridged of their right to speak to write or otherwise to publish any thing but false facts affecting injuriously the life, liberty, property, or reputation of others or affecting the peace of the confederacy with foreign nations. Art. 7. all facts put in issue before any judicature shall be tried by jury except [1.] in cases of admiralty jurisdiction wherein a foreigner shall be interested, [2.] in cases cognisable before a court martial concerning only the regular officers & souldiers of the U. S. or members of the militia in actual service in time of war or insurrection, & [3.] in impeachments allowed by the constitution. Art. 8. no person shall be held in confinement more than —— days after they shall have demanded & been refused a writ of Hab. corp. by the judge appointed by law nor more than —— days after such writ shall have been served on the person holding him in confinement & no order given on due examination for his remandment or discharge, nor more than —— hours in any place at a greater distance than —— miles from the usual residence of some judge authorised to issue the writ of Hab. corp. nor shall that writ be suspended for any term exceeding one year nor in any place more than - miles distant from the station or encampment of enemies or of insurgents. Art. 9. Monopolies may be allowed to persons for their own productions in literature & their

own inventions in the arts, for a term not exceeding —— years but for no longer term & no other purpose. Art. 10. all troops of the U. S. shall stand ipso facto disbanded at the expiration of the term for which their pay & subsistence shall have been last voted by Congress, and all officers & souldiers not natives of the U. S. shall be incapable of serving in their armies b["y" written upon "ut" erased] land except during a foreign war.' these restrictions I think are so guarded as to hinder evil only. however if we do not have them now, I have so much confidence in my countrymen as to be satisfied that we shall have them as soon as the degeneracy of our government shall render them necessary.

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James Manning to [George Washington]

[The Papers of the Continental Congress, No. 78, vol. XVI, p. 609.]

Providence, State of Rhode Island Augt 29th 1789—

Prevented, for some days, by necessary attentions to the College, from coming forwards, with the bearer, Benjamin Bourne Esquire with whom I am charged in a joint commission by the Town of Providence, I beg leave to introduce to your Excellencys notice & attention my colleague, and the business with which he is charged;—to introduce to Congress the unanimous petition of the Town of Providence, praying a speedy relief from the insupportable burthens imposed on their Commerce, by their being considered as Foreigners in the late Acts regulating the Tonage & collection of the Imposts in the United States—All the Seaport Towns, of consideration, in this State, vizt Newport, Bristol, Warren & Barrington unite in this application.

[Statutes at Large, vol. I, p. 48. See also pp. 69, 100.]

We contemplate the day of our accession to the Federal Government, now, near at hand. At the election of the members of our lower house of Assembly, held on Tuesday last, we calculate on a decided Majority of Federalists chosen to represent us in the Assembly to meet in October next, when, we flatter ourselves, that a Convention will be called to adopt the Constitution. Any assistance towards obtaining this, to us, most interesting object, which your Excellency may please to lend, will confer a peculiar obligation on the Federalists of Rhode Island;

[Madison Papers, vol. XVII, p. 23.]

James Manning to Mr. Maddison—

Providence August 29th 1789—

I take the liberty to introduce to your acquaintanc the bearer, Benjamin Bourne Esquire of this Town; and to request your assistance in obtaining ye object of the petition to Congress, which he is sent forward to present, viz.t that the Seaport Towns in the State of Rhode Island may be exempt from the Tonage imposed on foreigners; & ["from" stricken out] from the Impot also, to which they are subjected by the late acts of Congress, by considering them as foreigners.

When we reflect that Congress had the most irrefragable documents that the Seaports of this State were all federal; & that the landed Interest had prevented the adoption of the new Constitution heretofore, we were striken with amazement to find a discrimination in favour of the latter, in those acts—

Inevitable ruin stares us in the face in being thus secluded from all intercourse with the United States. We

address the Magnanimity of Congress, & intreat them to rescue us from that destruction to which we are doomed by these acts, by granting the prayer of our petition—All the Seaports, of consideration in the State, come forward with similar petitions;—and we have this Argument to urge in our favour, in addition to those we could, before, bring, that at the Election of Representatives on Tuesday last, the Towns, as we calculate, have chosen a decided Majority of Federalists; so that we look forward with Expectation of coming into the union at the next meeting of Congress, but if the aforesaid laws operate upon us till then, from our dependance on the States now in the union to carry on our Commerce, all our vessels must lie rotting at the Wharfs, & that numerous class of our Citizens, dependent upon commere must starve, or at least be reduced to the greatest distress—Your influence in Congress emboldens me to address you thus freely on the subject, & to solicit your interest in our favour.—Will you ask what can be done? One thing, at least, I presume can be done, bonds can be ["given" stricken out] demanded from the Inhabitants of this State, requiring them to pay the foreign Tonnage & impost, provided the State did not adopt the Constitution within a given time; say six or twelve months, or a shorter term; if it should be found that relief can be extended to us in no other way—

I was in the appointment with Mr Bourne but the necessary attentions to the College (it being the Anniversary Commencement, & meeting of the Corporation) will delay me for several days—

In a conversation with the Revd Isaac Backus, one of our noted ministers, whom I mentioned as having visited Vir-

ginia the last Spring (when I had the hononour of an interview with you at New York last June) he informed me that almost every where in his tour through Virginia he was consulted on the propriety & safety of the New Constitution, especially in regard to the rights of conscienc on which head they appeared much alarmed; the result, he informed me, was that in general they appeared to be satisfied after he had gone through the subject. I thought proper to communicate this as I conceived it would give pleasure to you as it did to Sir Your very humble Servt

[Madison Papers, vol. XVII, p. 2^.]

Ed. Carrington to The Honble Jas Madison jr. in Congress New York

Richmond Sept 9. 1789

I am just honored with your several favors of the 12th 26th & 28th Ult. a trip of business through several of our southern Counties as far as that of Halifax on the borders of North Carolina took me out of the way of getting them sooner. my route ["has taken in" stricken out] in the principal Antifederal parts of the Country were comprehended and I can assure you that the people appear to be perfectly quiet & reconciled to the Govt I have not heard of a refusal to take the oath ["of" stricken out] by any magistrates except two old Gentlemen in Prince Edward. being actually present at the Court of Halifax, a County distinguished for its violence in opposition, I can speak from my own observation as to it—the oath was taken by every magistrate & officer present, nor did I hear of any one in the County who intended to decline it. the people enquire with composure what Congress is doing, and discover no apparent apprehension for

the fate of the proposed amendments—I mention these things to you, because reports may reach you of a different ["complex" stricken out] nature. Stories have been brought to this City by a few weak, as well as wicked, men that the magistrates in the southern Counties would generally refuse the oath. a very considerable change has taken place amongst the Anti's as to yourself, they consider you as the patron of amendments, and it is no uncommon thing to hear confessions that they had been formerly imposed on, by representations that you were fixed against any alteration whatever. the subject of direct taxation is viewed in its proper light by many who were clamorous against it sometime ago, but the generality of the people seldom appear to think of it at all. indeed I see no appearance of any thing but acquiescence in whatever may be agreed on by those whom they have deputed to take care of their affairs.

I have observed with some little attention the amendments which have been agreed on in the H^s of R^s one of them which seems at present to be much approved of & was indeed made a considerable object of by all the States, will not. I apprehend, be found ["not a" stricken out] good [in "one" stricken out] practice—I mean the excessive enlargement of the representation; and what is still worse it will produce its inconveniences very unequally by their falling principally on the distant States: the greater the Representation, the more difficult will it be to find proper characters whose convenience will admit of punctual attendance, and this difficulty will be encreased in proportion to the distance from the Seat of Government—small as the Representation now is, compared with ["with" stricken out] what is proposed, disadvantages

of this kind would be felt by the distant States as soon as the novelty of the service might have in some degree worn off. but independently of these considerations, I would prefer a small representation. Numerous Assemblies deliberate but badly even when composed, and it is almost impossible to keep them so. I am satisfied that had the Assembly of Virginia amounted to but one fourth of the present number we should not have been so frequently disgraced by wicked & puerile Acts, nor would our sessions have been so long as we have generally seen them.

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[Madison Papers, vol. XVII, p. 27.]

Tench Coxe to The hon: J: Madison Junr Esqr New York

Philad^{a} Septem^{r} 9th 1789

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Since my Journey to Annapolis, where I hazarded a vote unsupported, and unauthorized by my powers, I have deemed capital Alterations in our general government indispensibly necessary. I have thought success to the plan of the last Convention or ruin the Alternatives before us. The first thing I ever committed to paper was the little enquiry into our Commerce, wch was printed at the meeting of the Convention. Occupied by a profession that is very disagreeable to me and unused to any kind of composition—especially upon subjects of so much moment you may judge of my anxiety upon the subject of the Constitution when I assure you that I got thro near thirty lengthy publications before the expiration of a year from its formation. My profession was too often postponed—and I am now suffering very seriously for it—and my health was nearly sacrificed by the sedentary habits I was led into— * * *

D^d^ Stuart to [George Washington] [Letters to Washington, vol. LXXIV, p. 126.]

Abingdon 12th September—1789—

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Tho' I have had but little time of late to attend to Politics, yet I think there is but one voice among us now, since the business of titles, that of approbation. The success of amendments will leave but a few scattering opponents—Mr Maddison will be a very popular character hereafter, on the South side of James river, for his conduct in this business, as Col^l^ Carrington informs me—The same Gentleman informs me, that there has been scarce an instance where the oaths have been refused—It is perhaps somewhat singular, but the Opponents to the Government, appear more generally pleased with the constrution of the Constitution, which vests the power of removal in the President, than the friends to it—Their satisfaction however entirely reconciles the latter to it—Mr Henry is the only one of the party, I have heard of, who disapproves of it—He still thinks too that the single amendment proposed in our Convention, respecting direct taxes, worth all the rest—

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J^s^ Madison Jr to The Hon~~o~~ble Edmund Pendleton Bolling [Madison Papers, vol. IV, p. 105.]

Green Virginia

N. Y. Sepr 14. 89.

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The Senate have sent back the plan of amendments with some alterations which strike in my opinion at the most salutary articles. In many of the States juries even in criminal cases, are taken from the State at large—in others from districts of conside[mutilated] extent—in very few from the County

alone—["The" stricken out] Hence a [mutilated]like to the restraint with respect to vicinage, which has produced a negative on that clause. A fear of inconvenience from a constitutional bar to appeals below a certain value, and a confidence that such a limitation is not necessary, have had the same effect on another article. Several others have had a similar fate. The difficulty of uniting the minds of men accustomed to think and act differently can only be conceived by those who have witnessed it.

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[Washington Papers, Letter-book 20, p. 56. Transcript.]

John Collins Gov[r] to His Excellency The President of the United States.

State of Rhode Island and Providence Plantations.

In General Assembly September session A D. 1789.

To the President, the Senate, and the House of Representatives of the eleven United States of America in Congress assembled.

The critical situation in which the People of this State are placed engage us to make these assurances, on their behalf of their attachment and friendship to their Sister States, and of their disposition to cultivate mutual harmony and friendly intercourse.

They know themselves to be a handful comparatively viewed, and although they now stand as it were alone, they have not separated themselves, or departed from the principles of that confederation which was formed by the sister States in their struggle for freedom, and in the hour of danger; They seek by this memorial to call to your remembrance the hazards which we have run, the hardships we

have endured, the treasure we have spent, and the blood we have lost together in one common cause, and especially the object we had in view—the preservation of our liberty—wherein, ability considered, they may truly say they were equal in exertions with the foremost, the effects whereof in great embarrassments, and other distresses consequent thereon we have since experienced with severity, which common sufferings and common danger, we hope and trust yet form a bond of union and friendship not easily broken.

Our not having acceded to, or adopted the new system of government formed and adopted by most of our sister States, we doubt not has given uneasiness to them: That we have not seen our way clear to do it consistent with our idea of the principles upon which we all embarked together, has also given pain to us; we have not doubted but we might thereby avoid present difficulties, but we have apprehended future mischief.—The People of this State from its first settlement have been accustomed and strongly attached to a Democratical form of government. They have viewed in the new Constitution an approach, though perhaps but small towards that form of government from which we have lately dissolved our connection at so much hazard and expence of Life and treasure: They have seen with pleasure the administration thereof from the most important trust downwards, committed to men, who have highly merited, and in whom the people of the United States place unbounded confidence: Yet even in this circumstance in itself so fortunate, they have apprehended danger by way of precedent—can it be thought strange then that with these impressions they should wait to see the proposed system organised and in operation? to see what further checks and securities would

be agreed to, and established by way of amendments before they could adopt it as a constitution of government for themselves and posterity?

These amendments we believe have already afforded some relief and satisfaction to the minds of the People of this State. And we earnestly look for the time when they may with clearness and safety be again united with their sister States under a constitution and form of government so well poised as neither to need alteration or be liable thereto by a majority only of nine States out of thirteen, a circumstance which may possibly take place against the sense of a majority of the people of the United States.

We are sensible of the extremes to which Democratical Government is sometimes liable, something of which we have lately experienced, but we esteem them temporary and partial evils compared with the loss of liberty and the rights of a free People, neither do we apprehend they will be marked with severity by our sister States when it is considered that during the late trouble the whole United States notwithstanding their joint wisdom and efforts fell into the like misfortune. That from our extraordinary exertions this State was left in a situation nearly as embarrassing as that during the war, That in the measures which were adopted Government unfortunately had not that aid and support from the monied interest which our sister States of New York and the Carolinas experienced under similar circumstances; and especially when it is considered that upon some abatement of that fermentation in the minds of the People, which is so common to the collision of sentiments and of Parties, a disposition appears to provide a remedy for the difficulties we have laboured under on that account.

We are induced to hope that we shall not be altogether considered as foreigners having no particular affinity or connection with the United States—But that trade and commerce upon which the prosperity of this State much depends, will be preserved as free and open between this and the United States as our different situations at present can possibly admit; earnestly desiring and proposing to adopt such commercial regulations on our part as shall not tend to defeat the collection of the revenue of the United States; but rather to act in conformity to, or co-operate therewith, and desiring also to give the strongest assurances that we shall during our present situation use our utmost endeavors to be in preparation from time to time to answer our proportion of such part of the interest or principal of the foreign and domestic debt, as the United States shall judge expedient to pay and discharge

We feel ourselves attached by the strongest ties of friendship, kindred, and of interest with our sister States; and we cannot without the greatest reluctance look to any other quarter for those advantages of commercial intercourse, which we conceive to be more natural, and reciprocal between them and us.

I am, at the request, and in behalf of the General Assembly Your most obedient humble Servant

Tench Coxe to The hon. J. Madison Jr Esq[r] [Madison Papers, vol. XVII, p. 32.]

Philad[a] Sept[r] 20th 1789

I am favored with your letter of the 18th from w[ch] I find the ground of apprehension, particularly refer'd to by me,

entirely removed. In regard to the probable effects of a position ["on" written upon "of"] Delaware or Susquehannah upon the Convention of Virginia could they have foreseen it, I am convinced ["they" written upon "it"] would have been fatal. I remember well that I learned from the letters of yourself and one or two other gentlemen who honor'd me with their correspondence that the ten Kentucky Members held the balance—that they were alarmed at the Symptoms they collected from the Spanish Negociation—and that three of the ten voting finally in favor of the Adoption produced the Majority of five when it was evident they might have made a negative of one. * * *

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Our state have determined to call a Convention. This measure is received with considerable moderation. The principal cause of a very industrious and unprincipled opposition to the federal Constitution in this state will thereby, you may be satisfied, be removed. There will be a division of our legislature—a single executive—a permanent judiciary and several other approved alterations made. * * *

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[Madison Papers, vol. IV, p. 106.]

J^s^ Madison Jr. to [Edmund Pendleton]

N. Y. Sepr 23. 1789.

The pressure of unfinished business has suspended the adjournment of Cong^s^ till Saturday next. Among other articles which required it was the plan of amendments, on which the two Houses so far disagreed as to require conferences.

It will be impossible I find to prevail on the Senate to concur in the limitation on the value of appeals to the Supreme Court, which they say is unnecessary, and might be embarrassing in questions of national or constitutional importance in their principle, tho' of small pecuniary amount. They are equally inflexible in opposing a definition of the locality of Juries. The vicinage they contend is either too vague or too strict a term, too vague if depending on limits to be fixed by the pleasure of the law, too strict if limited to the County. It was proposed to insert after the word juries—"with the accustomed requisites"—leaving the definition to be construed according to the judgment of professional men. Even this could not be obtained. The truth is that in most of the States the practice is different, and hence the irreconcileable difference of ideas on the subject. In some States, jurors are drawn from the whole body of the community indiscriminately; In others, from large districts comprehending a number of Counties; and in a few only from a single County. The Senate suppose also that the provision for vicinage in the Judiciary bill, will sufficiently quiet the fears which called for an amendment on this point. On a few other points in the plan the Senate refuse to join the House of Rep[s]

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G: Washington, to the Senate of the United States

United States September 26th. 1789

[Washington Papers, Letter-book 17, part 1, p. 110. Transcript. A similar communication was addressed to the House of Representatives. Idem.]

Having yesterday received a letter written in this month by the Governor of Rhode Island, at the request in behalf of the State of Rhode Island addressed to the President, the

Senate and the House of Representatives of the eleven United States of America in Congress assembled—I take the earliest opportunity of laying before you a copy of it—

[For the original, supra, p. 206.]

[Washington Papers, Letter-book 10, p. 40. Transcript.]

G. Washington to Gouverneur Morris Esquire.

New York, October 13. 1789.

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It may not however be unpleasing to you to hear in one word that the national government is organised, and as far as my information goes, to the satisfaction of all parties—That opposition to it is either no more, or hides it its head.

That it is hoped and expected it will take strong root,—and that the non acceding States will very soon become Members of the Union—No doubt is entertained of North Carolina, nor would there be of Rhode Island had not the majority of of that People bid adieu, long since to every principle of honor–common sense, and honesty. A material change however has taken place, it is said, at the late election of representatives, and confident assurances are given from that circumstance of better dispositions in their Legislature at its next session, now about to be held

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[Washington Papers, Letter-book 7, p. 181. Transcript. This paragraph also in letters of even date to Count D'Estaing, p. 185, and the Marquis de la Rouerie, p. 183. Transcripts.]

George Washington to Count de Rochambeau Calais.

New York October 13th 1789

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The opposition offered to the reform of our federal constitution has in a great measure subsided, and there is every reason to predict political harmony and individual happiness to the States and citizens of confederated America.

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Jabez Bowen to President of the United States

[Letters to Washington, vol. LXXIV, p. 196.]

Providence Octob^{r} 25 1789

I should have done my self the honour of paying my Respects to you in person, did not my Duty require my attendance at the General Assembly tomorrow at South Kingston, where the great Question of calling a State Convention to adopt the Federal Constitution will be acted upon. we hope for a favourable Issue, but cannot be free from Fear, lest we may be disappointed thro' the Intrigues of the Enemies of all good Government. if we can agree to Call a Convention all will end well, if not our situation will be truly miserable.

I shall be at Home on Sunday next and shall Think my self highly Honoured if you Excellency will take Providence in your way on your Return, and spend a little time with us. I should hope that your thus kindly noticing of us will not be of any disadvantage towards Establishing the great Cause that we have been so long engaged in promoting.

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D. Humphreys to The President of the United States.

[Letters to Washington, vol. LXXIV, p. 231.]

Petersburg Octr 28th 1789.

I am taking occasion by a water conveyance to inform you, that we are thus far on our way to New York. But my principal object is to mention the political intelligence which we obtained in North Carolina. The ["general" stricken out] prevailing opinion in that State (so far as we could ascertain it from repeated enquiries) is, that the Constitution will be adopted. However, many of those who are opposed to it think otherwise. I believe the information, most to be depended upon was given by Judge Williams of

the Supreme Court (then sitting at Halifax) Mr Ireton of the Council, & Col° Davie, viz, that the State is divided into ten Districts, that the members of seven of them taken collectively are equally divided for and against the adoption of the Constitution, and that the remaining three have a decided majority in favor of it. For example, Edenton District comprehends five Counties, & each County sends five members, who are said to be every one for the adoption. The other two reputed federal Counties are those beyond the Mountains.

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[Madison Papers, vol. XVII, p. 41.]

Hardin Burnley to [James Madison]

Richmond Novr the 5th 1789.

Since the date of my letter to you which I wrote a few days ago the resolutions of the Committee on the amendments proposed by Congress have been reported. Those which respected the ten first were agreed to with even less opposition than they experienced in the Committee, & that w^h passed on the 11th & 12th was rescinded by a majority of about twelve. The amendments with the resolutions on them are now with the Senate, where from the best information which I have been able to collect there is such a division in opinion as not to furnish a ground for probable conjecture as to their decision. Some of that body I am informed propose rejection in toto, others adoption, & others again wish to postpone a decision on them 'till next session of assembly. I believe it may be said with certainty that the greater part of those who wish either to postpone or reject, are not dissatisfied with the amendments so far as they have gone, but are apprehensive that the adoption of them at this time will be an obstacle to the chief object of their persuit,

the amendment on the subject of direct taxation. It is confidently said in this city that the Convention of North Carolina has adopted the Constitution by a very decided majority.

J^s. Madison Jr to The President of the U. States

Orange Novr 20. 1789.

[Letters to Washington, vol. LXXIV, p. 251. Madison Papers, vol. IV, p. 107. Copy.]

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I hear nothing certain from the Assembly. It is said that an attempt of M^r. H. to revive the project of commutables has been defeated, that the amendments have been taken up, and are likely to be put off to the next Session, ["the" stricken out] the present house having been elected prior to the promulgation of them. This reason would have more force, if the amendments did not so much correspond as far as they go with the propositions of the State Convention, which were before the public long before the last Election. At any rate, the Assembly might pass a vote of approbation along with the postponement, and assign the reason of referring the ratification to their successors. It is probably that the ["difficulty" stricken out] scruple has arisen with the disaffected party. If it be construed by the public into a latent hope of some contingent opportunity for prosecuting the war ag^st the Genl. Government, I am of opinion the experiment will recoil on the authors of it. As far as I can gather, the [illegible words stricken out] great bulk of the late opponents are entirely at rest, and more likely to confine a further opposition to the Gov^t as now Administred than the Government itself. One of the principal leaders of the Baptists lately sent me word that the amendments had entirely satisfied the disaffected of his Sect, and that it would appear in their subsequent conduct.

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[Letters to Washington, vol. LXXIV, p. 259.]

Edm: Randolph to [George Washington]

Richmond Nov[r] 26. 1789.

Since my last, written ["about" stricken out] five days ago, the committee of the whole house have been engaged in the amendments from congress. M[r] Henry's motion, introduced about three weeks past, for postponing the consideration of them, was negatived by a great majority. The first ten were easily agreed to. The eleventh and twelfth were rejected 64 against 58. I confess, that I see no propriety in adopting the two last. But I trust that the refusal to ratify will open the road to such an expression of fœderalism, as will efface the violence of the last year, and the intemperance of the inclosed letter, printed by the enemies to the constitution, without authority. However our final measures will depend on our strength, which is not yet ascertained—

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[ENCLOSURE.]

[Print.]

To his EXCELLENCY *the* GOVERNOR *of* VIRGINIA.

NEW-YORK, SEPTEMBER 28, 1789.

SIR,

WE have long waited in anxious expectations, of having it in our power to transmit effectual Amendments to the Constitution of the United States, and it is with grief that we now send forward propositions inadequate to the purpose of real and substantial Amendments, and so far short of the wishes of our Country. By perusing the Journal of the Senate, your Excellency will see, that we did, in vain, bring to view the Amendments proposed by our Convention, and approved by the Legislature. We shall transmit a complete set of the Journals of both Houses of Congress to your address, which

with a letter accompanying them, we entreat your Excellency will have the goodness to lay before the Honorable Legislature of the ensuing meeting.

We have the honor, of every sentiment of respect,
To be, Sir, your Excellency's most obedient,
And very humble servants,

RICHARD HENRY LEE.
WILLIAM GRAYSON.

The Honorable *the* SPEAKER *of the* House *of* Representatives *in* Virginia.

NEW-YORK, SEPTEMBER 28, 1789.

SIR,

WE have now the honor of enclosing the proposition of Amendments to the Constitution of the United States that has been finally agreed upon by Congress. We can assure you sir, that nothing on our part has been omitted, to procure the success of those radical amendments proposed by the Convention, and approved by the Legislature of our Country, which as our constituent we shall always deem it our duty with respect and reverence to obey. The Journal of the Senate herewith transmitted, will at once shew exact and how unfortunate we have been in this business. It is impossible for us not to see the necessary tendency to consolidated empire in the natural operation of the Constitution, if no further amended than as now proposed; and it is equally impossible for us not to be apprehensive for Civil Liberty, when we know of no instance in the records of history, that shew a people ruled in freedom when subject to one undivided Government, and inhabiting a territory so extensive as that of the United States; and when,

as it seems to us, the nature of man, and of things join to prevent it. The impracticability in such case, of carrying representation on sufficiently near to the people for procuring their confidence and consequent obedience, compels a resort to fear resulting from great force and excessive power in government. Confederated republics, where the Federal Hand is not possessed of absorbing power, may permit the existence of freedom, whilst it preserves union, strength, and safety. Such amendments therefore as may secure against the annihilation of the state governments we devoutly wish to see adopted.

If a persevering application to Congress from the states that have desired such amendments, should fail of its object, we are disposed to think, reasoning from causes to effects, that unless a dangerous apathy should invade the public mind, it will not be many years before a constitutional number of Legislatures will be found to demand *Convention for the purpose.*

We have sent a complete set of the Journals of each House of Congress, and through the appointed channel will be transmitted the Acts that have passed this session, in these will be seen the nature and extent of the judiciary, the estimated expences of the government, and the means so far adopted for defraying the latter.

We beg sir, to be presented with all duty to the Honorable House of Representatives, and to assure you that we are with every sentiment of respect and esteem,

Sir your most obedient and very humble servants,

RICHARD HENRY LEE.
WILLIAM GRAYSON.

Hardin Burnley to The hon^ble^ J. Madison J^r^ [Madison Papers, vol. XVII, p. 44.]

Richmond Novr the 28th 1789

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The fate of the amendments proposed by Congress to the General Government is still in suspense. In a committee of the whole house the first ten were acceeded to with but little opposition for on a question taken, on each seperately, there was scarcely a dissenting voice. On the two last a debate of some lenght took place, which ended in rejection. Mr E. Randolph who advocated all the others stood in this contest in the front of opposition. His principal objection was pointed against the word retained in the eleventh proposed amendment, and his agument if I understood it was applied in this manner, that as the rights declared in the first ten of the proposed amendments were not all that a free people would require the exercise of; and that as there was no criterion by which it could be determined whither any other particular right was retained or not, it would be more safe, & more consistant with the spirit of the 1st & 17th amendments proposed by Virginia, that this reservation against constructive power, should operate rather as a provision against extending the powers of Congress by their own authority, than as a protection to rights reducable to no definitive certainty. But others among whom I am one see not the force of the distinction, for by preventing an extension of power in that body from which danger is apprehended safety will be insured if its powers are not too extensive already, & so by protecting the rights of the people & of the States, an improper extension of power will be prevented & safety made equally certain. If the house should agree to the resolution for rejecting the two last I am of opinion

that it will bring the whole into hazzard again, as some who have been decided friends to the ten first think it woud be unwise to adopt them without the 11th & 12th. Whatever may be the fate of the amendments submitted by Congress it is probable that an application for further amendments will be made by this assembly, for the opposition to the Fœderal Consitution is in my opinion reduced to a single point, the power of direct taxation, ["and" stricken out] those who wish the change are desirous of repeating the application whilst those who wish it not are indifferent on the subject, supposing that Congress will not propose a change which would take from them a power so necessary for the accomplishment of those objects which are confided to their care. * * *

[Letters to Washington, vol. LXXIV, p. 263.]

D: Stuart to [George Washington]

3rd: Decr 1789—Abingn:

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During the time of my continuance in Richd on the above business, the Session of our Assembly commenced—A very extraordinary letter from our Senators in Congress, complaining of the inefficacy of the proposed amendments, and expressive of their fears, that the State governments would be annihilated; with a strong hint of the insufficiency of one government for so extensive a country, was recieved and read— I was happy in hearing much indignation expressed at it, by many who were strong Antifœralists, and had voted against the constitution in the Convention— It was generally attributed to an aim at popularity. My belief is, that it was meant by Mr R. H: Lee to serve his Brother, who is a Candidate for a Judge's seat in this State, and will no doubt

assume the merit with his party, of having been neglected on account of his principles— Grayson's short draft would be a sufficient motive with him to affix his signature to it— The letter was evidently in Mr Lee's hand— Mr Henry appears to me by no means content— But if the people continue as much satisfyed, as they at present appear to be, he will be soon alone in his sentiments— He however tried to feel the pulse of the House with respect to the Constitution, in two or three instances, and recieved at length I understood, a very spirited reply from Col^l^ Lee— * * *

J^s^ Madison Jr. to The President of the U. States.

Orange Decr 5. 1789.

[Letters to Washington, vol. LXXIV, p. 267. Enclosure missing; for a duplicate, ante, p. 216 Madison Papers, vol. IV, p. 108. Copy, including the enclosure.]

Since my last I have been furnished with the inclosed copy of the letter from the Senators of this State to its Legislature. It is well calculated to keep alive the disaffection to the Government, and is accordingly applied to that use by the violent partizans. I understand the letter was written by the first subscriber of it, as indeed is pretty evident from the stile and strain of it. The other, it is said, subscribed it with reluctance. I am less surprized that this should have been the case, than that he should have subscribed at all.

My last information from Richmond is contained in the following extract from a letter of the 28th Novr from an intelligent member of the H. of ["Rep^s^" stricken out] Delegates. * * * * * *

[Burnley to Madison, ante, p. 219. The extract includes all there printed.]

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The difficulty started ag^st^ the amendments is really unlucky, and the more to be regretted as it springs from a friend to the Constitution. It is a still greater cause of

regret, if the distinction be, as it appears to me, altogether fanciful. If a line can be drawn between the powers granted and the rights retained, it would seem to be the same thing, whether the latter be secured, ["whether" stricken out] by declaring that they shall ["be violated" stricken out] not be abridged, or that the former shall not be extended. If no line can be drawn, a declaration in either form would amount to nothing. If the distinction were just it does not seem to be of sufficient importance to justify the risk of losing the amend^{ts} of furnishing a handle to the disaffected, and of arming N. C. with a pretext, if she be disposed, to prolong her exile from the Union.

[Letters to Washington, vol. LXXIV, p. 269.]

Edm: Randolph to [George Washington]

Richmond dec^{r} 6. 1789.

When I had the honor of writing to you last, the amendments had, I believe, been under consideration in a committee of the whole, and ten were adopted, and the two last rejected. Upon the report being made to the house, and ["a" written upon "no"] without debate of any consequence, the whole twelve were ratified. They are now with the senate, who were yesterday employed about them. That body will attempt to postpone them; for a majority is unfriendly to the government. But an effort will be made against this destructive measure.

In the house of delegates, it was yesterday moved to declare the remainder of the amendments, proposed by our convention, essential to the rights and liberties of the people. An amendment was offered, saying, that in pursuance of the will of the people, as expressed by our convention, the gen-

eral assembly ought to urge congress to a reconsideration of them. The amendment was carried by the speaker, giving a casting vote. This shews the strength of the parties, and that in the house of delegates the antifœderal force has diminished much since the last year. A representation is to be prepared, and the inclosed speaks the temper, which we wish to exhibit in it. Whether we shall succeed in our attempt to carry such a remonstrance through, is with me very doubtful. It will be pushed; because it seems to discountenance any future importunities for amendments; which in my opinion is now a very important point. I should have been sanguine in my belief of carrying the representation thro' in its present form, if the friends would have joined the enemies of the constitution, in suspending the ratification of the eleventh amendment; which is exceptionable to me, in giving a handle to say, that congress have endeavoured to administer an opiate, by an alteration, which is merely plausible.

The twelfth amendment does not appear to me to have any real effect, unless it be to excite a dispute between the United States, and every particular state, as to what is delegated. It accords pretty nearly with what our convention proposed; but being once adopted, it may produce new matter for the cavils of the designing.

P. S. I shall do myself the honor of replying to your official letter, as soon as the assembly rises.

[ENCLOSURE.]

The General Assembly of Virginia having taken into consideration the articles proposed in amendment of the Constitution have ratified the first &c—

These subjects naturally turn our attention, to the remaining proposals of Virginia for amendments. The respect which we entertain for the Convention by which they were recommended, impels us to call upon Congress to reconsider them: At the present Day we prefer this mode to a Convention.

In the tender of amendments to the Constitution, to which we are one only of many Parties, we cannot expect that the individual wishes or judgment of one state should prevent that Decision which seems best for the whole; We desire the reconsideration as suited to the greatness of the Questions; feeling an assurance that when time shall have shewn the Constitution in all its Properties, whether good or Evil, the same love of our common Country, which first prompted us to unite, will lead us to embrace the improvements which Experience shall suggest

[Jefferson Papers, series 2, vol. LXXV, No. 68. Press copy.]

Th: Jefferson to [William Short]

Eppington Dec. 14. 1789.

* * * North Carolina has acceded to the new constitution by a great majority. we have not heard whether at the same time they accepted the new amendments. these have been accepted by our H. of delegates, but will probably not be so, entire, by the Senate, $\frac{7}{8}$ of whom are antifederal. Rhode island has again refused the new constitution. antifederalism is not yet dead in this country. the gentlemen who opposed it retain a good deal of malevolence towards the new government. Henry is it's avowed foe. he stands higher in public estimation than he ever did. yet he was so often in the minority in the present assembly that he has

quitted it, never more to return, unless an opportunity offers to overturn the new constitution. E. Randolph made a proposition to call a convention to amend our form of government. it failed as he expected.

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Edm: Randolph to [George Washington]

[Letters to Washington, vol. LXXIV, p. 284.]

Richmond dēc^{r} 15. 1789.

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The senate, as I mentioned in my last, rejected the 3^{d} 8th 11th & 12th amendments, and adopted the rest. It has been thought best by the mo[mutilated] zealous friends to the constitution to let the whole of them rest. I have submitted to their opinion; not choosing to rely upon my own judgment in so momentous an affair. The ground of their opinion is a resolution to throw the odium of rejection o["n" written upon "f"] the senate.

Jabez Bowen to Excellency George Washington Esqr

[The Papers of the Continental Congress, No. 78, vol. X, p. 613.]

Providence Decmb^{r} 15. 1789

In my Letter that I addressed to your Excellency in Boston I informed you that I should attend the General Assembly, where the Question would be determined wheather we should Call a Convention, or not. altho' we found a small Majority, whose private sentiments, were for the motion, yet so many of them were bound by Instructions from their Constituents to vote against it that the motion was lost by a Majority of 22.

The Assembly now stands Adjorned^{u} to the second Monday in January then to meet in this Town.

We have just heard of the Adoption of the Constitution by North:Carolina, on which I hartily Congratulate your Excellency, more-especially as the Majority is so verry large. This Event will have some weight with the oposition with us, but I am afraid not sufficient to Insure a Convention.

The Towns of Newport Providence Bristol &c. with the whole Mercantile interest in the other Towns in the State are Federal. while the Farmers in general are against it. Their oposition arises principally from their being much in Debt, from the Insinuations of wicked and designing Men, that they will loose their Liberty by adopting it; that the Sallerys of the National Officers are so verry high that it will take the whole of the Money Collected by the Impost to pay them, that the Intrest & principle of the General Debt must be raised by Dry Taxation on Real Estates, &c. We have Exerted our utmost abilities to Convince them of the Errors that they have Imbibed by hearing to the old Tories and Desperate Debtors, but all in vain, what further Sir is to be done? if we knew what our Duty was, we are willing to do it, tho' I have no Idea that the Antis will or can be induced to come in without the arm of Power is Exerted and that they shall be taught that the principles that they hould and Disseminate among the Citizens of the Neighbouring States as well as this is inconsistent, and not propper to be professed by any person or persons that Live on the Teritorys of the United States: their wish is to overturn the whole Federal Government ["th" erased] rather than this State should submitt to it. If we faile in getting a Convention at the next Meeting of the General Assembly will Congress protect us if we seperate from the State Government; and appoint us Officers to Collect the Revennue, if this should be tho't well of and

should be put in practice but in part I have no doubt but it will bring the Country part of the Community to their senses soon—and that one Town and another will be a Dropping off so that the oposition will be done away. be pleased Sir to give me an answer to this proposition as soon as Convenient.

This will be deliver'd by Major J. S. Dexter who is a Member of our Gen[l] Assembly, and to whom I Refer your Excellency for furthur particulars:

(Private)

Ed. Carrington to The Honble Ja[s] Madison [Madison Papers, vol. XVII, p. 48.]

Richmond Dec[r] 20. 1789

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during the session, there has been much less intemperance than prevailed last year. M[r] H—— was disposed to do some antifederal business, but having felt the pulse of the House on several points ["he at" stricken out] and finding that it did not beat with certainty in unison with his own, he at length took his departure about the middle of the session without pushing any thing to its issue. his first effort was to procure an address of thanks, or in some other mode the acknowledgements of the House, for the great vigilance of our senators manifested in their letter upon the subject of our forlorn ["situation" stricken out] prospect in regard to such amendments as will secure our liberties under the Government. upon this point he made a speach to the house, but it not appearing to take well, it was never stirred again. this letter was considered by some of the most violent of the Anti's as seditious and highly reprehensible. his next effort was to

refer the amendments sent forward by Congress, to the next session of Assembly, in order that the people might give their sentiments whether they were satisfactory, alledging that in his opinion they were not. to this purpose he proposed a resolution, but finding the disposition of the house to be otherwise, he moved that it might lie on the Table, and went away without even calling it up again. somewhat later in the session the subject of the amendments ["were" was stricken out] taken up—the ten first were, with ["an" the stricken out] exception of perhaps not more than ten members, unanimously agreed to—on the eleventh and twelfth some difficulty arose, from Mr. E. Randolphs objecting to them as unsatisfactory—after much debate ["however" stricken out] they were rejected in the Committee of the whole but the report being defered a few days they were accepted in the House by a pretty good majority thus the whole were adopted in the lower house—they went to the senate in one resolution where they remained long—["they" stricken out] the resolution at length returned with a proposition["s" stricken out] to amend by striking out the 3d 8th 11th & 12, these to be refered to the consideration of the people. to this amendment the lower house disagreed and requested a conference—the senate insisted, and assented to the conference, this was, however, productive of conviction on neither side, the Committee on the part of the senate returned with S. T. Mason at their head, to their House, which upon his motion, immediately adhered before any thing further passed between the two Houses; ["this" stricken out] the delegates could in no stage have seen cause to recede from their disagreement; but under this intemperate and unprecedented conduct they were left

without a choice of any thing but to adhere also, and thus the whole amendments have fallen. the sense of the house of delegates was fairly & fully passed on the propriety of adopting them, and the intemperance manifested in the conduct of the senate, will doubtless shew the people ["that" stricken out] whether this fate of the amendments, was produced from a want of merit in them, or in the senate. through the whole course of the business in that house there was on the several questions equal divisions of the members, so, as to leave the decision to the chair. notwithstanding the unequivocal decision in the house of delegates for adopting the amendments, yet in the course of the discussion some intemperance was generated—this led to propositions which in the earlier parts of the session none would have thought of, and it was with difficulty that a proposition for demanding a compliance with the amendments proposed by our convention, so far as they have not been agreed to, by Congress was prevented from passing. this proposition was presented to the house as often as three times, at first it was rejected by a great majority, at the next attempt it was rejected by a less majority, and at the third by the vote of the speaker ["a very small one." stricken out] had Mr Henry ["had any" stricken out] conceived that such would have been the temper in the latter stages of the session, he would not have left us. my information from the various parts of the Country is that the people are at ease on the subject of amendments, expecting nothing but that those sent on would be adopted and that others ["would" stricken out] will be supplied as further deliberation and experience shall discover the want of them. this I think I am warranted in supposing to be true, because the heats which have appeared in the latter

part["s" stricken out] of the session would have shewn themselves sooner had they been amongst the people when their representatives came from their Counties, but they have been generated here in the course of the discussions upon the amendments.

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[Washington Papers, Letter-book 7, p. 233. Transcript.]

George Washington to the Honorable Jabes Bowen Rhode Island.

New York Decr 27th 1789.

The letters with which you have been pleased to favor me, dated in October, and the 15th of the present month came duly to hand, and are entitled to my thanks for the communications contained in them.—

As it is possible the conduct of Rhode Island (if persevered in) may involve questions in Congress which will call for my official decisions, it is not fit that I should express more than a wish—in reply to your letter—than that the Legislature at the coming Session would consider well before it agains rejects the proposition for calling a Convention to decide on their accession to, or rejection of the present Government.—The adoption of it by North Carolina has left them entirely alone.—

[Letters to Washington, vol. LXXV, p. 5. Madison Papers, vol. IV, p. 110. Copy.]

J^{s} Madison Jr. to The President of the United States

George Town Jany 4 1790

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You will probably have seen by the papers that the contest in the Assembly on the subject of the amendments ended ["in" written upon "the"] the loss of them. The

House of Delegates got over the objections to the 11 & 12, but the Senate revived them with an addition of the 3 & 8 articles, and by a vote of adherence prevented a ratification. On some accounts this event is no doubt to be regretted. But it will do no injury to the Gen[l] Government. On the contrary it will have the effect ["of" stricken out] with many of turning their distrust towards their own Legislature. The miscarriage of the 3[d] art: particularly, will have this effect.

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G. Washington to the Senate of the United States—

[Washington Papers, Letter-book 17, part 2, p. 13. Transcript.]

United States January 12. 1790—

I have directed M[r] Lear my private Secretary to lay before you a copy of the adoption and ratification of the Constitution of the United States by the State of North Carolina, together with the copy of a letter from his Excellency Samuel Johnston President of the Convention of said State, to the President of the United States—

The originals of the papers which are herewith transmitted to you will be lodged in the Office of the Secretary of State—

[Doc. Hist., II, 275.]

[ENCLOSURE.]

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By the direction of the President of the United States, I have examined and compared the foregoing with the Adoption and Ratification of the Constitution of the United States by the State of North-Carolina, which was transmitted to the President of the United States by Samuel Johnston President of the Convention of said State—as well as the transcript of

the Constitution of the United States recited in the said ratification, which I certify to be a true copy—

signed) Tobias Lear—Secretary to the
President of the United States

[Washington Papers, Letter-book 20, p. 116. Transcript.]

Tobias Lear. S. P. U. S to Roger Alden Esquire.

United States January 12. 1790.

I am directed by the President of the United States to transmit herewith to you, to be lodged in the office of State with other public papers under your care, and to be delivered to the Secretary of State whenever he may enter upon the duties of his office, the Form of the adoption and ratification of the constitution of the United States by the State of North Carolina, which has been officially communicated to him by the President of the Convention of said State; and likewise a letter which accompanied the above form of Ratification from Samuel Johnston President of the Convention of the State of North Carolina to the President of the United States

[Washington Papers, Letter-book 17, part 2, p. 27. Transcript.]

G. Washington to the Senate and House of Representatives.

United States. January. 25th 1790—

I have received from his Excellency John E. Howard, Governor of the State of Maryland, an Act of the Legislature of Maryland to ratify certain Articles in addition to, and amendment of the Constitution of the United States of America proposed by Congress to the Legislatures of the several States; and have directed my Secretary to lay a Copy of the same before you, together with the copy of a letter accompanying

the above Act, from his Excellency the Governor of Maryland to the President of the United States—

The originals will be deposited in the Office of the Secretary of State— [Doc. Hist., II, 330.]

Tobias Lear S. P. U. S. to Roger Alden Esquire. [Washington Papers, Letter-book 20, p. 117. Transcript.]

United States January 25. 1790.

I am directed by the President of the United States to transmit herewith to you, to be deposited in the office of State with other public papers under your care, and to be delivered to the Secretary of State whenever he may enter upon the duties of his office, an act of the Legislature of Maryland to ratify certain articles in addition to and amendment of the constitution of the United States of America proposed by Congress to the Legislatures of the several States, and likewise a letter accompanying the above act from J. E. Howard Governor of the State of Maryland to the President of the United States.

G. Washington to the Senate and House of Representatives. [Washington Papers, Letter-book 17, part 2, p. 28. Transcript.]

United States. January. 28. 1790.

I have directed my Secretary to lay before you the copy of an Act of the Legislature of Rhode-Island and Providence Plantations entitled "an Act for calling a Convention to take into consideration the Constitution proposed for the United States, passed on the 17th day of September A. D. 1787. by the general Convention held at Philadelphia", together with the copy of a letter accompanying said Act, from his Excellency John Collins Governor of the State of Rhod-Island and Providence Plantations, to the President of the United States—

The originals of the foregoing Act and Letter will be deposited in the Office of the Secretary of State—

[Washington Papers, Letter-book 20, p. 118. Transcript.]

Tobias Lear. S. P. U. S. to Roger Alden Esquire.

United States January 28. 1790.

The President of the United States has directed me to transmit to you, to be deposited in the office of the Secretary of State, an act of the Legislature of the State of Rhode-Island and Providence Plantations for calling a convention to take into consideration the constitution proposed for the United States passed on the 17th day of September A D. 1787. by the general Convention held at Philadelphia—and likewise a letter accompanying said act from John Collins Governor of the State of Rhode Island to the President of the United States, praying on behalf of the People of said State for a further suspension of the operation of the Impost and Tonnage laws of the United States with respect to the State of Rhode-Island.

[Enclosures missing. For transcripts, see Appendix.]

[Washington Papers, Letter-book 17, part 2, p. 44. Transcript.]

G. Washington to the Senate and House of Representatives

United States February 15th 1790

I have directed my Secretary to lay before you the copy of a vote of the Legislature of the State of New-Hampshire to accept the Articles proposed in addition to, and amendment of the Constitution of the United States of America, except the second Article. At the same time will be delivered to you the copy of a letter from his Excellency the President of the State of New-Hampshire to the President of the United States—

The originals of the above mentioned vote and letter will be lodged in the Office of the Secretary of State— [Doc. Hist. II. 345.]

Tobias Lear S. P. U. S. to Roger Alden Esquire. [Washington Papers, Letter-book 20, p. 122. Transcript.]

United States, February 16th 1790.

In obedience to the command of the President of the United States, I now transmit to you to be deposited in the Office of the Secretary of State, The certified copy of a vote of the Legislature of the State of New Hampshire to accept the articles of amendment proposed for the constitution of the United States of America, except the second article, and also a letter which accompanied said vote, from John Sullivan President of the State of New Hampshire to the President of the United States

Tench Coxe to [Alexander Hamilton] [Hamilton Papers, vol. VIII, p. 85.]

Phila March 5th 1790

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I find more difficulty like to arise in the minds of the Members about the state Debts than any other part of your Report, as far as I can judge from my letters. All the public creditors here are against the Assumption. Those of the Continent because it will encrease the sum among the owners of wch the federal Revenues are to be divided: & those of the state because they would rather take their chance with her than with the Union. It is unpleasing to our antis because they say it will produce the old demon, consolidation, wch they raised up as a bugbear to prevent the Adoption of the constitution. Many of the fedsts & principal country gentlemen do not like it because we owe so little as a state, & possess

federal securities to a greater amount—My argument with them all is that the revolution of 1789, for as such a view it, was intended to settle a great number of public difficulties—that this was among them—and that it then was & is now evident that concessions of particular advantages would be necessary to enable us to surmount those difficulties—that this is one of the very few which Pennsylvania, New Yk and other states having small separate Debts can be called upon to make—that an expensive & uncertain administration of our finances must be the Consequence of fourteen systems of revenue, and therefore that we ought to consent to the assumption.

Mr Brown, who takes this has requested me to mention him to you. I believe I may venture to say no man has shewn more spirit in support of the Constitution, or suffered more in its cause. He is certainly capable in his branch, and his paper is resorted to by several of our first literary & political Characters. With a little aid it might be rendered subservient to every honest purpose public or private, and I cannot say I think either of our other daily papers devoted either to the cause of good government or of good men. You must make great Allowances however, Sir, for what I may say in favor of Mr Brown for I feel gratitude towards a man that voluntarily exerted himself to stem that torrent of abuse which my activity to carry the adoption of the Constitution & the reform of our state constitution occasioned to be poured upon me from one of our presses.—

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G. Washington to the Senate and House of Representatives. [Washington Papers, Letter-book 17, part 2, p. 48. Transcript.]

United States March 8th 1790—

I have received from his Excellency Joshua Clayton President of the State of Delaware the Articles proposed by Congress to the Legislatures of the several States as amendments to the Constitution of the United States; which Articles were transmitted to him for the consideration of the Legislature of Delaware, and are now returned with the following resolutions annexed to them, viz[t] [Doc. Hist., II, 351].

* * * * * * *

I have directed a copy of the Letter which accompanied the said Articles from his Excellency Joshua Clayton to the President of the United States to be laid before you.

The before mentioned Articles, and the original of the Letter will be lodged in the Office of the Secretary of State. [Doc. Hist., II, 347.]

Tobias Lear. S. P. U. S. to Roger Alden Esquire. [Washington Papers, Letter-book 20, p. 125. Transcript.]

United States Mar 8. 1790.

The President of the United States has commanded me to transmit to you, to be deposited in the office of the Secretary of State, certain articles proposed by Congress to the Legislatures of the several States as amendments to the constitution of the United States, which have been ratified by the Legislature of Delaware—and likewise a letter from His Excellency Joshua Clayton, President of the State of Delaware, to the President of the United States.

G. Washington to the Senate and House of Representatives. [Washington Papers, Letter-book 17, part 2, p. 51. Transcript.]

United States March 16th 1790

I have directed my Secretary to lay before you the copy

of an Act and Form of Ratification of certain Articles of Amendment to the Constitution of the United States, by the Legislature of the State of Pennsylvania; together with a copy of a letter which accompanied the said Act from the Speaker of the House of Assembly of Pennsylvania to the President of the United States—

[Doc. Hist., II, 352.] The originals of the above will be lodged in the Office of the Secretary of State.

[Washington Papers, Letter-book 20, p. 126. Transcript.]

Tobias Lear. S. P. U. S. to Roger Alden Esquire

United States March 16. 1790.

I am directed by the President of the United States to transmit to you, to be lodged in the Office of the Secretary of State, an act and the form of ratification of certain articles of amendment to the constitution of the United States, by the Legislature of the State of Pennsylvania—together with a letter from the honorable Richard Peters Esquire, Speaker of the House of Assembly of Pennsylvania to the President of the United States

[Madison Papers, vol. XVII, p. 80.]

Tench Coxe to The hon J. Madison Jr Esqr

Philad[a] March 21. 1790.

I am sorry to find that the Rhode Island Convention have adjourned without determining in favor of the Constitution. This conduct is however so far favorable as it may be deemed a proof that they are not violently bent against it. The general causes of the conduct of that State are perfectly well understood, but I wish much to know as far as you have collected them and are at liberty to communicate them, their present views & intentions—Such things as they wish to

accomplish before their adoption and the consequences they fear or pretend to fear in the event of their coming into the Union. I wish to make myself master of the subject and to make such use of the information I may collect as may be proper in a publication. Our affairs with them must ere long draw to a point—Legislative or more forcible coercion must be at least considered—The case is so new and delicate that a reasonable proceedure, which may be expected to bring them to their duty, will be difficult to devise.—

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Tench Coxe to [James Madison] [Madison Papers, vol. XVII, p. 85.]

Philad[a] March 31. 1790—

* * * * * * *
* * * * * * *

I will mention to you confidentially that great pains have been heretofore taken to restrain Applications to the general Government on the subject of the slave trade. A very strong paper was drawn & put into my hands to procure the signature of D[r] Franklin to be presented to the federal convention—I enclosed to ["the" written upon "D[r] F"] D[r] with my opinion that it would be a very improper season & place to hazard the Application considering it as an over zealous act of honest men—* * *

* * * * * * *

G. Washington to the Senate and House of Representatives— [Washington Papers, Letter-book 17, part 2, p. 58. Transcript.]

United States. April 1. 1790.

I have directed my private Secretary to lay before you a Copy of the adoption by the Legislature of ["South" written upon "North"] Carolina, of the Articles proposed by Con-

gress as Amendments to the Constitution of the United States; together with a copy of a letter from the Governor of the State of South Carolina to the President of the United which have lately come to my hands.

[Doc. Hist., II, 340.] The originals of the foregoing will be lodged in the Office of the Secretary of State.

[Jefferson Papers, series 1, vol. IV, No. 12. Press copy.]

Th: Jefferson to Marquis de la Fayette

New York April 2. 1790.

* * * the opposition to our new constitution has almost totally disappeared. [illegible words stricken out] some few indeed had gone such lengths in their declarations of hostility that they feel it awkward perhaps to come over; but the amendments proposed by Congress, have brought over almost all their followers. if the President can be preserved a few years till habits of authority & obedience can be established, generally, we have nothing to fear. the little vaut-rien, Rhode-island will come over with a little more time. * * *

[Washington Papers, Letter-book 17, part 2, p. 63. Transcript.]

G. Washington to the Senate and House of Representatives.

United States, June 1st 1790—

Having received official information of the accession of the State of Rhode Island & Providence plantations to the Constitution of the United States, I take the earliest opportunity of communicating the same to you with my congratulations on this happy event which unites under the General Government all the States which were originally confederated; I have directed my Secretary to lay before you a Copy of the letter from the President of the Convention of the State of Rhode Island to the President of the United States—

[This letter is missing.]

Geo: Washington to His Excellency Arthur Fenner Governor of the State of Rhode Island.

[Washington Papers, Letter-book 7 p. 304. Transcript.]

N. York June 4th 1790.

In acknowledging the receipt of your Excellency's letter of the 20th of May, I cannot forbear to congratulate you and the people of your State upon the happy event which has since taken place by the adoption and ratification of the Constitution of the United States by the Convention of Rhode Island.—

Having now attained the desireable object of uniting under one general Government all those States which were originally confederated, we have a right to expect, with the blessing of a divine Providence, that our Country will afford us all those domestic enjoyments of which a free people only can boast—and at the same time secure that respectability abroad which she is entitled to by nature and from circumstances.—Since the bond of Union is now complete, and we once more consider ourselves as one family, it is much to be hoped that reproaches will cease and prejudices be done away; for we should all remember that we are members of that community upon whose general success depends our particular and individual welfare;—and, therefore, if we mean to support the Liberty and Independence which it has cost us so much blood and treasure to establish, we must drive far away the demon of party spirit and local reproach.

* * * * * * *

G. Washington to the Senate and House of Representatives United States. June 11. 1790

[Washington Papers, Letter-book 17, part 2, p. 77. Transcript.]

I have directed my Secretary to lay before a copy of the ratification of the amendments to the Constitution of

the United States by the State of North Carolina; together with an extract from a letter accompanying said ratification, from the Governor of the State of North-Carolina to the President of the United States—

[This extract is the first paragraph of the letter from Martin to Washington, May 25, 1790: Doc. Hist., II, 335.]

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[Jefferson Papers, series 1, vol. IV, No. 54. Press copy.]

Th: Jefferson to Col^{o} George Mason.

New York June 13. 1790.

* * * * * * *

I should have been happy in a conversation with you on the subject of our new government, of which, tho' I approve of the mass, yet I would wish to see some amendments, further than those which have been proposed, and fixing it more surely on a republican basis. I have great hopes that pressing forward with constancy to these amendments, they will be obtained before the want of them will do any harm. to secure the ground we gain, & gain what more we can, is I think the wisest course. I think much has been gained by the late constitution; for the former one was terminating in anarchy, as necessarily consequent to inefficiency. * * *

[Washington Papers, Letter-book 17, part 2, p. 82. Transcript.]

G. Washington to the Senate and House of Representatives

United States. June 16. 1790

The Ratification of the Constitution of the United States of America by the State of Rhode Island and Providence Plantations was receiv'd by me last night, together with a letter to the President of the United States from the President of the Convention—I have directed my Secretary to lay before you a copy of each—

[Doc. Hist., II, 291.]

George Washington to Daniel Owen Esquire President of the Convention of the State of Rhode Island [Washington Papers, Letter-book 7, p. 307. Transcript.]

United States June 19th 1790.

I have delayed acknowledging the receipt of your letter of the 29th of May, which contained official information of the adoption and ratification of the Constitution of the United States of America by the State of Rhode Island, until the form of the ratification should be received, which together with your letter accompanying it got to my hands but a few days ago; and I take this opportunity of offering you my sincere congratulations upon this event which unites under one general government all the branches of the great American family, and I doubt not but it will prove as auspicious to the good people of your State as it is pleasing to the other parts of the Union—

G. Washington to the Senate and House of Representatives [Washington Papers, Letter-book 17, part 2, p. 87. Transcript.]

United States June 30th 1790

An Act of the Legislature of Rhode Island and Providence Plantations for ratifying certain Articles as Amendments to the Constitution of the United States, was yesterday put into my hands; and I have directed my Secretary to lay a copy of the same before you— [Doc. Hist., II, 363.]

G. Washington to the Senate and House of Representatives [Washington Papers, Letter-book 17, part 2, p. 106a. Transcript.]

United States August 6th 1790

I have directed my Secretary to lay before you a Copy of an exemplified Copy of a Law to ratify on the part of the State of New Jersey, certain Amendments to the Constitution of the United States; together with the copy of a letter which accompanied ^ said [Doc. Hist., II, 325.]

ratification, from the Honorable Elisha Lawrence Esquire Vice-President of the State of New Jersey, to the President of the United States.—

[Jefferson Papers, series 1, vol. IV, No. 249. Press copy.]

Th: Jefferson to C^t^ de Moustier.

Philadelphia Dec. 3. 1790.

* * * * * * *

our second experiment is going on happily; and so far we have no reason to wish for changes except ["those" stricken out] by adding those principles which several of the states thought were necessary as a further security for their liberties. all of these as proposed by Congress will certainly be adopted, except the 2^d^ which is doubtful, & the first which is rejected. * * *

[Jefferson Papers, series 1, vol. IV, No. 323. Press copy.]

Th: Jefferson to Christopher Gore esq. Boston.

Philadelphia Aug. 8. 1791.

Having understood that the legislature of Massachusets some time ago ratified some of the amendments proposed by Congress to the Constitution, I am now to beg the favour of you to procure me an authentic copy of their proceedings therein, certified under the great seal of the state, letting me know at the same time the office charges for the copy, seal &c which shall be remitted you. the legislature of Massachusets having been the 10th state which has ratified, makes up the threefourth of the legislatures whose ratification was to suffice. consequently so much as they have approved, has become law, and it is proper that we should have it duly promulgated for the information of the judges, legislatures, and citizens generally. I will thank you if this can be done

without delay, as I am to leave this place about three weeks hence to be absent for some time.

G° Washington to the Senate and House of Representatives.

[Washington Papers, Letter-book 18, p. 30. Transcript.]

United States November the 11th 1791.

I have received from the Governor of Virginia a Resolution of the General Assembly of that Commonwealth, ratifying the first Article of the Amendments proposed by Congress to the Constitution of the United States: A copy of which, and of the letter accompanying it, I now lay before you.

[Doc. Hist., II, 385.]

* * * * * * *

G° Washington to the Senate and House of Representatives.

[Washington Papers, Letter-book 18, p. 38. Transcript.]

United States, December 30th 1791.

I lay before you a copy of the ratification, by the Commonwealth of Virginia, of the Articles of Amendment proposed by Congress to the Constitution of the United States;—and a copy of a letter which accompanied said ratification from the Governor of Virginia.

[Doc. Hist., II, 385.]

Tobias Lear Secretary to the President of the United States to the Secretary of State

[Jefferson Papers, series 2, vol. XLIX, No. 31. Washington Papers, Letter-book 20, p. 291. Transcript.]

United States 30th Decr 1791.

By the President's command T. Lear has the honor to transmit to the Secretary of State the ratification, by the Commonwealth of Virginia, of the Articles of Amendment proposed by Congress to the Constitution of the United States—and a letter which accompanied said ratification from the Governor of Virginia to the President of the United States.

[Washington Papers, Letter-book 18, p. 43. Transcript.]

G°. Washington to the Senate and House of Representatives.

United States, January 18th 1792.

[Doc. Hist., II, 374, 375.]

I lay before you a copy of an Exemplified Copy of an Act of the Legislature of Vermont, ratifying in behalf of that State, the Articles of Amendment proposed by Congress to the Constitution of the United States; together with a copy of a letter which accompanied said ratification.—

[Jefferson Papers, series 4, vol. II, No. 50. In handwriting of Jefferson.]

Gunston hall. Sep. 30. 92. ex relatione G. Mason

The constn as agreed to till a fortnight before the convention rose was such a one as he w^d have set his hand & heart to. 1. the presid^t was to be elected for 7. years, then ineligible for 7. more. 2. rotation in the senate. 3. a vote of ⅔ in the legislature on particular subjects, & expressly on that of navign. the 3. new Engl^d states were constantly with us in all questions (Rho. isl^d not there, & N. York seldom) so that it was these 3. states with the 5. Southern ones against Pennsva Jersey & Delaware. ["at last however the" stricken out] with respect to the importn of slaves it was left to Congress. this disturbed the 2 Southernmost states who knew that Congress would immediately suppress the importn of slaves. those 2 states therefore struck up a bargain with the 3. N. Engl^d states, if they would join to admit slaves for some years, the 2 Southernmost states w^d join in changing the clause which required ⅔ of the legislature in any vote. it was done. these articles were changed accordingly, & from that moment the two S. states and the 3 Northern ones joined Pen. Jers. & Del. & made the majority 8. to 3. against us instead of 8. to 3. for us as it had been thro' the whole Convention. under this coalition the great

principles of the Constn were changed in the last days of the Convention.

Anecdote. Yates Lansing & Hamilton represented N. Y. Yates & Lansing never voted in one single instance with Ham. who was so much mortified at it that he went home. when the season for courts came on, Yates a judge & Lansing a lawyer went to attend their courts. then Ham. returned

Anecdote. the constn as agreed at first was that amendments might be proposed either by Congr. or the legislatures a commee was appointed to digest & redraw. Gov. Morris & King were of the commee. ["the" stricken out] one morng Gov. M. ["got" stricken out] moved an instrn for certain alterns (not $\frac{1}{2}$ the members yet come in) in a hurry & without understanding it was agreed to. the Commee reported so that Congr. shd have the exclusve power of propsg amendmts G. Mason observd it on the report & opposed it. King denied the constrn. Mason demonstrated it, & asked the Commee by what authority they had varied what had been agreed. G. Morris then impudently got up & said by authority of the convention & produced the blind instruction beforementd which was unknown by $\frac{1}{2}$ of the house & not till then understood by the other. they then restored it as it stood originally.

* * * * * * *

Th: Jefferson to [James Madison]

[Madison Papers, vol. XIX, p. 17.]

Georgetown Oct. 1. 1792.

I called at Gunston hall. the proprietor just recovering from a dreadful attack of the cholic. he was perfectly communicative, but I could not, in discretion let him talk as

much as he was disposed. I proceeded to M. Vernon & had a full, free, & confidential conversation with the President. the particulars shall be communicated when I see you.

* * * * * * *

[Indorsement.]

[Monroe Papers, vol. VII. p. 880a.]

M[r] Madison amendments of the const[n] of U S—

The following amendments to the Constitution have ["been" stricken out] it is said laid before the Senate by the Members from Virginia, and will claim the attention and consideration of the public in the ["Recess of" stricken out] interval between the late and the Ensuing Session.

Here insert the amend[ts]

As one of the amend[ts] has for its object the purification of the Legislature from the pecuniary influence which has been so much complained of, ["would" stricken out] ["is" stricken out] it ["not necessary" stricken out] is apparent that some more efficatious remedy should be applied to so great an evil? It has occurred to several friends of a pure republican administration of our Gov[t] that it w[d] be justifiable and expedient to ["provide a co" stricken out] add to the above amend[ts] a proposition, ["for" stricken out] to the following effect—to wit—"that each member of Cong[s] at the time of taking his ["seat & oath now" stricken out] the seat & qualification now required by the Constitution, shall state on ["oath qualification, shall shall deliver" stricken out] ["the as" stricken out] oath the amount of his property in public and Bank Stock ["Stock" stricken out] of every kind; and shall moreover swear that during the term of his continuing a member, he will not purchase or deal in any such paper, or any public lands, or other public property whatever—" If ["this" stricken out] such a prohibition be necessary or salutary in the case of the

several officers in the Executive line ["to" stricken out, on] whom it has been laid, the reasons seem to be far more cogent in relation to the members of the Legislature, who have much more ["extensive opportunities." stricken out, in their power to convert] public trust to their private emoluments, it so

[Anonymous] to Hon^e A Hammilton Secre^y of the Treasury Philadelphia

[Hamilton Papers, vol. XXIV, p. 47.]

New York Augt 30th 1793

A publication appeared some time since in Greenleaf's paper, charging you with having moved in Convention, that the Goverment of the United States should be by a King, Lords & Commons—I took some pains to discover the author of that piece, but without success— But a conversation lately happened between Comodore Nicholson & Mr Leonard Bleeker, in the hearing of others, in which the Commodore said; he had read the peice before alluded to, but doubted the truth of it untill it was lately confirmed by Mr Abraham Baldwin, who was also a member of the Convention—This Mr Baldwin did publicly in a pretty large company at the Commodores own Table. He said your motion was seconded by Mr Gove^r Morris & that you was so chagrined when it failed that you left the House in disgust; That you returned however on a subsequent day, delivered your sentiments in writing, & Came off to New york, declaring you intermeddle no farther in the matter— Notwithstanding you returned, & assented to the Constitution as it is—This writing he suggested contained your Ideas of the kind of Government proper to be adopted—In

repeating from other persons, words are often changed; but the foregoing is the substance of what the Commodore reports Mr Baldwin to have said— I leave to yourself the expediency of taking any notice of it. Indeed I should not have troubled you with mentioning it were it not for the mischevious assiduity of manki[mutilated] which improves occasions more than things to ma[mutilated] ill impressions— As there are evidences enough of the foregoing, it will be needless to use my name in the matter— I will never refuse it however to honest men for honourable purposes—

[Hamilton Papers, vol. XVI, p. 106.]

Fisher Ames to Mr Hamilton Philadelphia

Boston Augt 31 1793

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[Proceedings of the Massachusetts Legislature and Governor Hancock's speech to the same on the suability of a State are printed in the National Gazette of April 20 and September 28, 1793: Madison Papers.]

My principal object in writing at this time is, to mention to you the subject of a state be[mutilated] sued. It was seized here, as you must have see[mutilated] The people understand the matter imperfectly and on the whole, I conceive the entire active for[mutilated] of the state politics to be hostile to the decision. It is supposed, the Legislature will vote their censure of the suableness of a state & request congress to propose an amendment—or instruct their Senators & request their Representatives to move such an amendment. Is this regular? The Constitution authorises two modes of amending—either congress may propose alterations to the states, or a convention may be called. If specific amendments should be moved by the states to congress, is there not a great mischief lurking in the precedent? However I wave the ceremony of any reply from you, which busy

as you are, is needless. I wish to call your reflections to the subject—which I think will be stir'd. We cannot doubt it will be so manàged as if possible to make difficulty.

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G° Washington to the Senate and House of Representatives.— [Washington Papers, Letter-book 19, p. 23. Transcript.]

United States January 8th 1795.

I lay before Congress copies of acts passed by the legislatures of the States of Vermont, Massachusetts & New York, ratifying the amendment proposed by the Senate & House of Representatives at their last session, to the Constitution of the United States, respecting the judicial power thereof. [These acts are missing.]

* * * * * * *

G° Washington to the Senate and House of Representatives. [Washington Papers, Letter-book 19, p. 33. Transcript.]

United States Feby 17. 1795.

I transmit to Congress Copies of a letter from the Governor of the State of New Hampshire, and of an Act of the Legislature thereof, ratifying "the article proposed in amendment to the constitution of the U States," respecting the judicial power. [These papers are missing.]

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G° Washington to the Senate and House of Representatives. [Washington Papers, Letter-book 19, p. 39. Transcript.]

United States Feby 25—1795.

I communicate to Congress copies of a Letter from the Governor of the State of Georgia, and of an Act of the Legislature thereof "to ratify the resolution of Congress explanatory of the judicial power of the United States."— [These papers are missing.]

[Washington Papers, Letter-book 19, p. 42. Transcript.]

G° Washington to the Senate and House of Representatives.

United States Mar: 2d 1795.

I transmit to you copies of a Letter from the Governor of the State of Delaware and of an Act enclosed, "declaring the assent of that State to an amendment therein mentioned to the Constitution of the United States."

[These papers are missing.]

[Washington Papers, Letter-book 19, p. 107. Transcript.]

G° Washington to the Senate and House of Representatives

United States January 29th 1796

I send herewith, for the information of Congress,

1st. An Act of the legislature of the State of Rhode Island, ratifying an Amendment to the Constitution of the United States, to prevent suits in certain cases against a state.

[This Act is missing.]

2. An Act of the State of North Carolina making the like ratification.

[Doc. Hist., II, 402.]

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[Madison Papers, vol. V, p. 108.]

Js Madison Jr– to Mr Monroe

Philada Feby 26. 1796.

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The amendments proposed by Virginia, for requiring the consent of the H— of Reps to Treaties, limiting the terms of Senators to three years &c. have 1255 · 353 · 766 · 812 · 619 · 531 · 639 · 8 · 953 · 911 · 657 · 1670 · 698 · 174 · and the 1490 · 159 · 7 · 812 · 1133 · 8 · & 133 · 614 · 1171 · been 446 · 1645 · 974 · 778 · 216 · 317 · 406 · 1177 · 149 · 1359. The 1406 · 1442 · 1197 · 768 · 649 · 1352 · ["90" stricken out] · 67 · 62 · 1039 · 1464 · 19 · [numbers stricken out] have 450 · 1598 · 130 · 748 · 1359 · and 172 · 450 · 1352 · 412 · 149 · 153 · 766 · 812 · 1426 · 627 .

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[Thomas Jefferson] to Mr Madison.

[Madison Papers, vol. XXI, p. 127. Jefferson Papers, series 1, vol. VII, No. 194. Press copy.]

Philadelphia Jan. 24. 98

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Marshall of Kentuckey, this day proposed in Senate some amendments to the constitution. they were barely read just as we were adjourning, & not a word of explanation given. as far as I caught them in my ear, they went only to modifications of the elections of President & V. President, by authorising voters to add the office for which they name each, & ["transferring" stricken out] giving to the Senate ["the right now held by the Representatives of chusing a President in the case of" stricken out] the decision of a disputed election of President & to the Representatives that of Vice-President—but I am apprehensive I caught the thing imperfectly, & probably incorrectly. perhaps this occasion may be taken of proposing again the Virginia amendments, as also to condemn elections by the legislatures themselves, to transfer the power of trying impeachments from the Senate to some better constituted court &c. &c.

* * * * * * *

Jan. 25. I inclose Marshall's propositions. they have been this day postponed to the 1st of June, chiefly by the vote of the Antirepublicans under the acknoleged fear that other amendments would be also proposed, and that this is not the time for agitating the public mind.

[Enclosure missing.]

Albert Gallatin to President of the U. States

[Jefferson Papers, series 3, vol. III, No. 91.]

Washington 14th Sept. 1801

* * * * * * *

Pennsylvania is, I think, fixed. Although we have there amongst our friends several office hunters, republicanism rests there on principle pretty generally; and it rests on the people at large, there not being, in the whole State a single individual whose influence could command even

now one county, or whose defection could lose us one hundred votes at an election. It is ardently to be wished that the situation of New York was as favorable; but so much seems to depend in that State on certain individuals; the influence of a few is so great; & the majority in the city of New York (on which unfortunately the majority in the State actually depends, that city making $^{1}/_{8}{}^{th}$ of the whole) is so artificial, that I much fear that we will eventually lose that State before next election of President. The most favorable event would certainly be the division of every State into districts for the election of electors; with that single point & only common sense in the Administration, republicanism would be established for one generation at least, beyond controversy: but if not obtainable as a general constitutional provision, I think that our friends, whilst they can, ought to introduce it immediately in New York. Davis's visit to Monticello has led me to that conclusion, by drawing my attention to that subject. There are also two points connected with this on which I wish the republicans throughout the Union would make up their mind. Do they eventually mean not to support Burr as your successor when you shall think fit to retire? Do they mean not to support him at next election for Vice President? These are serious questions; for although with Pennsylvania & Maryland, we can fear nothing so long as you will remain the object of contention with the federalists; yet the danger would be great, should any unfortunate event deprive the people of your services. Where is the man we could support with any reasonable prospect of success? Mr Madison is the only one, & his being a Virginian ["would" written upon "will"] be a considerable objection. But, if without thinking of

events more distant or merely contingent, we confine ourselves to the next election which is near enough, the embarrassment is not less; for, even Mr Madison cannot on that occasion be supported with you: and it seems to me that there are but two ways, either to support Burr once more, or to give only one vote for President, scattering our votes for the other person to be voted for. If we do the first, we run, on the one hand, the risk of the federal party making B. president, & we seem, on the other, to give him an additional pledge of being eventually supported hereafter by the republicans for that office. If we embrace the last party, we not only lose the Vice President, but pave the way for the federal successful candidate to that office to become President. All this would be remedied by the amend^t^ of distinguishing the votes for the two offices, & by that of dividing the States into districts. But as it is extremely uncertain whether such amendments will succeed, we must act on the ground of elections going on as heretofore.

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Th: Jefferson to Secretary of the Treasury

[Jefferson Papers, series 1, vol. VIII, No. 218. Press copy.]

Monticello Sep. 18. 1801

* * * the amendment to the constitution of which you speak would be a remedy to a certain degree. so will a different amendment which I know will be proposed, to wit, to have no electors, but let the people vote directly, and the ticket which has a plurality of the votes of any state, to be considered as recieving thereby the whole vote of the state.—

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[Hamilton Papers, vol. XXXIX, p. 152.]

Bushrod Washington to Gen[l] Alexander Hamilton

New-York

Walnut Farm Nov[r] 21. 1801.

* * * * * * *

The system of intolerance & proscription which seems to be the order of the day from the General to many of the State Governments will I fear produce a fatal scism, which may probably divide the States as it already has the ["States" stricken out] people. But I apprehend that the plan of M[r] Pendleton which not unlikely is the plan of his party, to obtain a general convention for reforming the constitution, will bring us to this ultimate point of our political progress by a shorter road. I do not think that it requires the gift of prophesy to foretell the dissolution of the confederacy if a convention should be agreed to by $\frac{2}{3}^{ds}$ of the States at this, or perhaps at any other time.

[Hamilton Papers, vol. XVIII, p. 182.]

A H[amilton] to Gouverneur Morris Esquire City of Washington

Feby 27.

* * * * * * *

Mine is an odd destiny——Perhaps no man in the U States has sacrificed or done more for the present Constitution than myself—and contrary to all my anticipations of its fate, as you know from the very begginning, I am still labouring to prop the frail and worthless fabric. Yet I have the murmurs of its friends no less than the curses of its foes for my reward. What can I do better than withdraw ["myself" stricken out] from the Scene? Every day proves to me more and more that this American world was not made for me.

* * * * * * *

[INDORSEMENT.]

New York 27 Feby 1802

Alex^{r} Hamilton

A H[amilton] to G Morris Esq

[Hamilton Papers, vol. XVIII, p. 184.]

New York March 4. 1802

You have seen certain resolutions unanimously pass our legislature for amending the Constitution 1 by designating separately the candidates for President and Vice President 2 by having the Electors chosen by the people in districts under the direction of the National Legislature.

After mature reflection I was thorougly confirmed in my first impression, that it is true Fœderal policy to promote the adoption of these amendments—

Of the first, not only because it is in itself right that the people should know whom they are choosing, & ["that" stricken out] because the present mode gives all possible scope to intrigue and is dangerous (a[mutilated] we have seen) to the public tranquillity—but becau[mutilated] in every thing which gives opportunity for juggling arts, our adversaries will Nine times out of Ten excell us—

Of the second, because it removes ["so" stricken out] thus far the intervention of the state Governments and strengthens the connection between the Fœderal head ["or" stricken out] and the people, and because it diminishes the means of party combination, in which also the ["active" stricken out] burning zeal of our opponents will be generally an overmatch for our temperate flame—

* * * * * * *

[Hamilton Papers, vol. XVIII, pp. 151 and 151a. Copy.]

A. Hamilton to [Gouverneur Morris]

New York, April 6, 1802.

* * * * * * *

The Fœds. and Anti Fœds. of this State united in certain amendments to the Constitution, now before your House, having for objects, 1st. To discriminate the candidates for the Presidency and Vice presidency—2d. To have the Electors of these officers chosen by the people, in districts, under the direction of Congress. Both these appear to me points of importance in true Fœderal calculation. Surely the scene of last session ought to teach us the intrinsic demerits of the existing plan. It proved to us, how possible it is for a man in whom no party has confidence, and who deserves the confidence of none, by mere intrigue and accident, to acquire the first place in the Government of our Nation: And it also proves to us, how serious a danger of convulsion and disorder is incident to the plan. On this point, things have come to my knowledge, improper for a letter, which would astonish you. Surely we ought, by this time, to have learnt, that whatever mutiplies the opportunities and means of cabal, is more favorable to our adversaries than to us. They have certainly the advantage in the game, by greater zeal, activity and subtlety, and especially by an abandonment of principle. On all these accounts, it is our true policy to abridge the facilities to cabal, as much as possible, in all our public institutions and measures. As to the second of the amendments, it has ever appeared to me as sound principle to let the Fœderal Government rest, as much as possible, on the shoulders of the people; and as little as possible on those of the State Legislatures. The proposition, accords with this principle, and in my view it is further

recommended by its tendency to exclude combination, which, I am persuaded, in the general and permanent course of things, will operate more against than for us. Col. Burr, without doubt, will resist these amendments; and he may induce some of our friends to play into his hands. But this will be a very bad calculation, even admitting the inadmissible idea, that he ought to be adopted as a Chief of the Fœderal party. * * *

Th: Jefferson to Doct^r^ Priestly

[Jefferson Papers, series 1, vol. VIII, No. 366. Press copy.]

Washington June 19. 1802.

* * * one passage, in the paper you inclosed me, must be corrected. it is the following. 'and all say that it was yourself more than any other individual, that planned & established it.' i. e. the constitution. I was in Europe when the constitution was planned & established, and never saw it till after it was established. on recieving it I wrote strongly to m̃r Madison urging the want of provision for the freedom of religion, freedom of the press, trial by jury, habeas corpus, the substitution of militia for a standing army, and an express reservation to the states of all rights not specifically granted to the union. he accordingly moved in the first session of Congress for these Amendments which were agreed to & ratified by the states as they now stand. this is all the hand I had in what related to the Constitution. our predecessors made it doubtful how far even these were of any value. for the very law which endangered your personal safety, as well as that which restrained the freedom of the press, were gross violations of them. however it is still certain that tho' written

constitutions may be violated in moments of passion or delusion, yet they furnish a text to which those who are watchful may again rally & recall the people: they fix too for the people principles for their political creed. * * *

[Jefferson Papers, series 2, vol. LII, No. 25.

Levi Lincoln to The President of the United States

Washington Jany 10. 1803–

I ought to dismiss all scruples, and apprehensions respecting the constitutionality of the proposed bargain with France, when Gentlemen much more capable of viewing the transaction in all its various bearings have satisfied themselves on the subject. The importance of New Orleans and the Floridas, with the unimpeded navigation of the Mississippi to the U. S., to their peace and prosperity, is, in my opinion so great, as to justify, almost any risque for their attainment.—A mode, differing in shape and in principle, but to all the purposes for which the acquisition is of moment, precisely the same with the proposed one, has occured to me, which, I wish you to look at. My idea if a practical one, by giving a new aspect to the contemplated negotiation, while it substantially secures the object of pursuit, will, perhaps, free it from some formidable difficulties. The idea is,—that for the common advantage of having great, fixed, and natural boundaries between the territory of France and of the United States, and to secure to the latter, the full and unimpeded enjoyment of the navigation, maritime & commercial ["advantages" stricken out] rights important, and naturally appurtenant to a country bordering on navigable rivers, in the neighbourhood of a sea-coast, and from the interior of which country, navigable rivers empty themselves

into a neighboring sea, France agrees to extend the boundaries of the Mississippi Territory, and of the State of Georgia, respectively, so that the former shall be bounded on the middle of the channel or bed of the river Mississippi from the 31° of N Lat: to its mouth, on the Gulf of Mexico on the South, and on the middle of the river Appalachicola on the East, including the Island of New Orleans, and all the Islands bays & harbors on its southern boundary, and the latter shall be bounded by the middle of the s^{d} Appalachicola on the west, by the s^{d} Gulf on the South, & by the Atlantic on the east, including all the Islands bays and harbors on & belonging to the s^{d} Coast—

By this indirect mode, if it is feasible, would not the general Gov^{t} avoid some constitutional, and some political embarrassments, which a direct acquisition of a foreign territory by the Gov^{t} of the United States might occasion?—For instance, would not the territory added to the respective states by the enlargement of their boundaries, as an incident immediately by the act of accretion, assimilate to the principal, and merging in them, be subject to their authority, and of course to the authority of the United States?

If the proposed acquired property, or territory, can be thus melted down, and consolidated, instead of being federated with the States already united, their laws would extend to it, in common with other parts of the enlarged States, without risking the doubtful attempt, so to amend the constitution, as to embrace the object; or hazarding the ratification of the treaty, from an opposition to such an amendment;—or being exposed to the consequences of such an amendment's being refused—The Inhabitants thus added, and who would have been citizens of the enlarged State, had the acquired

territory originally been a part of such State, would, of course be considered as citizens; and others get naturalized under the existing laws. This mode of naturalization would keep one door closed against future controversy, and dangerous divisions, in our country, and on a principle somewhat similar to the one sanctioned by Jay's treaty—

If the opinion is correct, that the Gen[l] Gov[t] when formed, was predicated on the then existing united States, and such as could grow out of them, & out of them only, and that its authority, is, constitutionally, limited to the people composing the several political state Societies in that union, & such as might be formed out of them; would not a direct independent purchase, be extending the executive power further, and be more alarming and improveable by the opposition and the Eastern States, than the proposed indirect mode?—Is there not danger, that, the Eastern States, including even Rhod Island & Vermont, if not New-York, & other States further south, would object to the ratification of a treaty directly introducing a state of things, involving the idea of adding to the weight of the southern States in one branch of the Gov[t] of which there is already too great a jealousy & dread, while they would acquiese in that increase of the other branch consequent on the enlargement of the boundaries of a State?–

It is foreseen, ["I am sure of it," stricken out] that the opposition, and the eastern States will take a distinction, between securing the free navigation of the Mississippi, with a convenient deposit for merchandize, and a measure and the principles of a measure, which may add one or more States to the Union, and thereby change that relative influence between different parts of the united States, on which the general Gov[t] was predecated. No plea of necessity, of com-

mercial utility, or national security, will have weight with a violent party, or be any security against their hostile efforts & opposition clamor. It is recollected that the sending a squadron, to the defence of our Commerce as necessary & useful as the measure appeared to be, was arraigned by some, as a usurpation of power, calling for investigation & impeachment—

The principles, and the precedent, of an independent purchase of territory, it will be said, may be extended to the east or west Indies, and that some future executive, will extend them, to the purchase of Louissiania, or, still further south, & become the Executive of the United State of North & South America—

The mode of acquiring new territory by extending the boundaries of existing States, will foreclose these objections, as well as supersede the necessity of amend the constitution, and perhaps prevent the rejection of the acquisition treaty, if such a one should be made—

The consequences deducible from the principles & the precedent, in the present case, if predicated on the advantages & necessity of having great natural boundaries for national ones, and the river navigation naturally belonging to the country; would necessarily be limited by the object, and if extended, to the utmost could never be injuriously applied in future. The only case, in which the principle could possibly be applied hereafter, would be in extending the boundaries of some of the northern States to the river St Lawrence.

This mode of acquiring property ["of acquiring property" stricken out] by the U. S. in adding to the territory of particular States, would require their consent. In the proposed

instance they would not object. Georgia ought to give the money we owe her, on account of her late cession for this acquisition. New Orleans & W Florida being a part of the territory of Mississippi, may in future be made a State, if it shall be found to be useful, without altering the constitution. From this accession of inhabitants to the territorial Gov[t] it would, soon arrive to its second grade, and increase the value & the sale of lands belonging to the U. S.—

These ideas have occured to me in reflecting on the subject; From a fear that I should appear to be too squeamish, visionary, or apprehensive of difficulties, I have rather prevailed on myself, than gratified an inclination, in asking you to look at them—

[Jefferson Papers, series 3, vol. IV, No. 72.]

Albert Gallatin to [Thomas Jefferson]

* * * * * * *

I have read M[r] Lincoln's observations and cannot distinguish the difference between a power to acquire territory for the United States, and a power to extend by treaty the territory of the United States: yet he contends that the first is unconstitutional, & supposes that we may acquire East Louisiana & West Florida by annexing them to the Mississipi territory. Nor do I think his other idea, that of annexation to a State, that for instance of East Florida to Georgia as proposed by him, to stand on a better foundation. If the acquisition of territory is not warranted by the constitution, it is not more legal to acquire for one State than for the United States: if the Legislature and Executive established by the constitution are not the proper organs for the acquirement of new territory for the use of the Union, still less can they be

so for the acquirement of new territory for the use of one State: if they have no power to acquire territory, it is because the constitution has confined its views to the then existing territory of the Union, and that excludes a possibility of enlargement of one State as well as that of territory common to the United States. As to the danger resulting from the exercise of such power, it is as great on his plan as on the other. What would on his construction, prevent the Presid^{t} & Senate by treaty annexing Cuba to Massachussets or Bengal to Rhode Island? if ever the acquirement of colonies shall become a favorite object with Government,—and colonies shall be acquired.

But does any constitutional objection really exist? The 3^{d}. Sect. of the 4th Art. of the Constitution provides

1st that new States may be admitted by Congress into this Union.

2dly that Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

Mr Lincoln, in order to support his objection is compelled to suppose 1st that the new States therein alluded to must be carved either out of other States, or out of the territory belonging to the United States and 2dly that the power given to Congress of making regulations respecting the territory belonging to the U. S. is expressly confined to the territory then belonging to the Union.

A general and perhaps sufficient answer is that the whole rests on a supposition, there being no words, in the section, which confine the authority given to Congress to those specific objects; whilst, on the contrary, the existence of the United States as a nation presupposes the power enjoyed by

every nation of extending their territory by treaties, ["or otherwise" stricken out] and the general power given to the President & Senate of making treaties ["implies" stricken out] designates the organs through which the acquisition may be made, ["and" stricken out] whilst this Section provides ["for" stricken out] the proper authority (viz[t] Congress) for either admitting in the Union or governing as subjects the territory thus acquired.

It may be further observed in relation to the power of admitting new States in the Union, that this section was substituted to the 11th Art. of confederation which was in these words "Canada acceding &[c] shall be admitted into &[c] this Union: but no other colony shall be admitted into the same, unless such admission be agreed to by nine states." As the power was there explicitly given to nine States, and as all the other powers given in the articles of confederation to nine States were by the Constitution transferred to Congress, there is no reason to believe, as the words relative to the power of admission are, in the Constitution, general, that it was not the true intention of that Constitution to give the power generally & without restriction.

As to the other clause, that which gives the power of governing the territory of the United States, the limited construction of M[r] Lincoln is still less tenable: for if that power is limited to the territory belonging to the United States at the time when the constitution was adopted, it would have precluded the United States from governing any territory acquired, since the adoption of the constitution, by cession of one of the States, which, however, has been done in the case of the cessions of North Carolina & Georgia: and, as the words "other property" follow and

must be embraced by the same construction which will apply to the territory, it would result from Mr L.'s opinion, that the United States could not after the constitution, either acquire or dispose of any personal property.

To me it would appear

1st That the United States as a Nation have an inherent right to acquire territory

2d That whenever that acquisition is by treaty, the same constituted authorities in whom the treaty making power is vested have a constitutional right to sanction the acquisition

3d That whenever the territory has been acquired, Congress have the ["exclusive" stricken out] power either of admitting into the Union as a new State, or of annexing to a State with the consent of that State, or of making regulations for the government of, such territory.

The only possible objection must be derived from the 12th amendment which declares that powers not delegated to the United States, nor prohibited by it to the States are reserved to the States or to the people.

As the States are expressly prohibited from making treaties, it is evident that, if the power of acquiring territory by treaty is not considered within the meaning of the amendment as delegated to the United States, it must be reserved to the people. If that be the true construction of the Constitution it substantially amounts to this—that the United States are precluded from, and renounce altogether the ["acquirement" stricken out enlargement] of territor["y" written upon "ial"]; a provision sufficiently important and singular to have deserved to be expressly enacted. Is it not a more nat-

ural construction to say that the power of acquiring territory is delegated to the United States by the several provisions which authorize the several branches of Government to make war—to make treaties—& to govern the territory of the Union.

I must, however, confess that after all, I do not feel myself perfectly satisfied: the subject must be thoroughly examined; and the above observations must be considered as hasty & incomplete.

[Jefferson Papers, series 1, vol. IX, No. 160. Press copy.]

Th: Jefferson to mr Gallatin The Secretary of the Treasury

* * * * * * *

you are right in my opinion as to mr L's proposition. there is no constitutional difficulty as to the acquisition of territory; and whether, when acquired, it may be taken into the union by the constn as it now stands will become a question of expediency I think it will be safer not to permit the enlargement of the Union but by amendment of the constitution.

[Hamilton Papers, vol. XVI, p. 91. Copy.]

Timothy Pickering to General Hamilton.

Salem / Massachusetts / April 5th 1803

The assertion of the Jacobins, that you are an aristocrat and a Monarchist, is not new: But at a late meeting of the sect in this town, one of their leaders declared "That Genl Hamilton proposed (and it was understood, advocated) in the General Convention, that the President of the United States, and the Senators, should be chosen for life: that this was intended as an introduction to Monarchy: And that

the Federalists of this county (Essex) had adopted Gen[l] Hamiltons plan." Your friends here (who are the real friends of their country) are very desirous of knowing the fact— If you did not make and advocate that proposition, it will be useful to have it known and the Jacobin lie contradicted: If the proposition was offered in the Convention, your friends will know to what motives to ascribe it; and that, whatever form of Government you may have suggested for consideration, the public welfare, and the permanent liberty of your Country were not less the objects of pursuit with you, than with the other members of the Convention. Your answer will gratify me and your numerous friends here. Such use only shall be made of it as you shall prescribe—

* * * * * * *

Rob[t] R Livingston to Thomas Jefferson Esq[r] President U S: A—

[Jefferson Papers, series 2, vol. LII, No. 106.]

Paris 2[d] June 1803 midnight.

M[r] Monroe having undertaken to write our joint letter on the subject of Louisiana I should confine mine to the Secretary of State to objects that relate only to my individual Department, but I must communicate to you in the utmost confidence a circumstance that has just come to my knowledge & that must be known only to yourself & M[r] Madisson because it will influence your measures.—You know that the ratifications had been delivered & that we were to send them directly to you, we accordingly applied for a passport for M[r] Jay the bearer.—to our note on this subject we received no answer I called this day on M[r] Talleyrand to accelerate it; he was at S[t] Cloud I called on the Minister of the Treasury

he was there also. I called again this night & am just
they have been these two days past in
returned 1081 · 911 · 1112 · 976 · 992 · 1305 —234 · 1456 ·
Council and principally ◇ basting Mr Marbois
119 · 1667 · 660 · 1488 · 1635 · 844 · 1587 · 525 · 518 · 1126 ·
on the subject of the Treaty for
1467 · 1237 · 968 · 1070 · 1022 · 1221 · 968 · 866 · 465 · 715 ·
it seems that the Consul is less pleased with it
1031 · 377–967 · 968 · 108 · 1467 · 935 · 556 · 1513 · 689 · 1031 ·
since the ratification than before ◇ and I persuaded
245 · 968 · 834 · 1028 · 11 966 · 1106 · 1667 · 1011 · 538 · 1069 ·
^
that if he could conveniently
1607–967 · 1027 · 913 · 118 · 1175 · 573 · 1021 · 419 · 1488 ·
get off he would he insists that our whole debt
1598 · 1221 · 913 · 698 · 913 1456 · 247–967 · 211 · 679 · 1307 ·
exceed
does not sent four millions and that we have got twenty
142 · 408 · 379 · 722 · 738– 1667 · 967 · 85 · 911 · 1598–990 ·
that the delivering the ratifications to
967 · 968 · 1316 · 1034 · 1533 · 1459 · 968 · 834 · 1028 · 11– 849 ·
us was contrary to all form and that they must
599 · 675 · 113 · 849 · 1675 · 718 · 1667 · 967 · 1081 · 317 · 1059 ·
be recalled ◇ and given to Mr Pichon
1637 · 342 · 1675 · 1513 · 1667 · 1403 · 849 · 525 · 546 · 1446 ·
ex-
to Europe change ◇ and to this I believe
849 · 1375 · 21 · 1667 · 849 · 1087 · 1011 · 1109 · 1021 · 571 ·
we must consent as it is certainly
85 · 317 · 1059 · 1175 · 379 1657 · 1031 · 1467 · 26 · 1293 ·
regular tho' we shall first keep
1488 · 347 · 994 · 1047 · 1089 · 85 · 390 1580 · 1039 · 222 ·
copies of the ratifications ◇ he insists ◇ that
115 · – 1221 · 968 · 834 · 1028 · 11 · – 913 · 1456 · 247–967 ·
it the Stock is not delivered in
1027 · 968 · 1066 · 1193 · 1467 · 408 · 1316 · 1034 1533 — 1456 ·
[time]
the to prescribed the Treaty is void
968 · 849 · 651 · 459 · 1014 · 1513 · 968 · 866 · 466 · 1467 · 77 · 1018 ·
<
that as it is not to be created till after the delivery of the
territory a party among us may create delays in taking
he insists upon writing to
possession &c 913 · 1456 · 247–596 · 700 · 1459 · 849 ·
<
Pichon not to deliver them but upon a
546 · 1446 · 408 · 849 · 1316 · 1533 · 970 · 1157 · 596 · 1690 ·
certainty that we will create the Stock &c
28 · 1293 · 993 · 967 · 85 · 685 · 125 · 9 · 968 · 1066 · 1193 · 480 ·
and upon giving ◇ him certain discretionary
1667 · 596 · 1403 · 1459 · 1437 · 28 · 1293 · 155 · 360 · 1463 ·
powers &c < in short he appears to
1656 · 648–480 · 1456 · 364 · 424 · 1290 · 913 · 1642–849 ·
wish the thing undone and he will not be
683 · 839 · 968 · 1083 · 593 · 1345 · 1667 · 913 · 685 · 408 · 1637 ·
sorry to see an opposition to its ratification
262 · 450 · 849 · 460 · 1 · 423 · 849 · 1031– 834 · 1028 · 11 ·
◇
with us or such a delay [as] will render
689 · 599 · 424 · 1072 · 1690 · 1316 · 1627 · 685 · 352 · 1327 ·

it void
1031 · 77 · 1018. I told you in a letter to Mr Madisson how &
was put into the hands of Mr
why the negotiation · 675 · 806 · 1461 · 968 · 901–1221 · 525 ·
Marbois
518 · 1126 · 1467 · 1087 · 906 · 408 · 1105 · 715 · 1403– · 1159 ·
This has not been forgiven by
and I doubt not that every
· · · · 1667 · 1011 · 1343 · 1628 · 1290 · 418 · 967 · 1372 ·
and
possible objection that insinuation has
465 · 644 · 924 · 1210 · 1667 · 1456 · 244 · 995 · 845 · 906 ·
been made use of to disgust the first
1105 · 503 · 600 · 1221 · 849 · 157 · 1421 · 1059 · 968 · 1580 ·
Consul with it. To appea- se him in some measure
108 · 689 · 1031 · 849 · 1642 460 · 1437 · 1456 · 260 · 758 ·
Mr Marbois <
525 · 518 · 1126 · 1467 · has engaged to write a letter to us
stating that it is understood that if the treaty is not complied
with in the time prescribed that it will be void—I have told
him that nothing we can write will change the treaty that a
non compliance on our part if unnecessary or done with bad
faith might render it void, but that an accidental non com-
plyance would not defeat it and I strongly objected to writing
he was very much distressed at
any thing upon the subject 913 · 675 · 577 · 318 · 149–8 · 95 ·
what had passed and told me that he had done
1427 · 233–1667 · 851 · 139 · 531 · 967 · 913 · 1427 · 1345 ·
◇
every thing for us & that we must not
1372 · 465 · 1083 · 715 · 599 · 1667 · 967 · 85 · 317 · 1059 · 408 ·
sacrifice him You will see his letter
452 · 125 · 1028 · 179 · 1437 · 476 · 685 · 460 · 1439 · 938 ·
< ◇
and our answer he promised to send it
1667 · 211 · I · 1287 · 1533 · 913 · 670–849 · 378 · 139 · 1031 ·
tomorrow we will take care that the answer
849 · 306 · 516 · 85 · 685 · 1294 · 35 · 179 · 967 · 968 · I · 1287 ·
shall occasion no change in the Treaty which
1533 · 390 · 1214 · 640 · 21 · 1456 · 968 · 866 · 465 · 100 ·
□
indeed is impossible it should, but we must
1457 · 1467 · 1434 · 644 · 924 · 1031 · 365 · 1157 · 85 · 317 · 1059 ·
as far as we can soothe the youth- ful
1657 · 197 · 1657 · 85 · 1165 · 259 · 965 · 968 · 476 · 965 · 1583 ·
◇
Conqueror whose will knows no resistance
1175 · 814 · 424 · 681 · 685 · 1043–640 · 840 · 247 · 1669. I
will add nothing to this, Mr Monroe I presume will so frame
our joint letter as to give you every necessary information—
You see the object of this is to guard you against any
but
delays that above all against any change in the
1316 · 1627–1667 · 1693 · 1675 · 1613 · 1660 · 21 · 1456 968 ·
◇

form of the ratification for be assured
718 · 1221 · 968 · 834 · 1028 · 11 · 715 · 1637 · 1657 · 1285–
that the slightest pretence will be seized
967 · 968 · 255 · 1030 · 1541 · 665 · 1521 · 685 · 1637 · 460 ·
to undo the work
1468 · 849 · 593 · 147 · 968 · 698. the first Consul has expressed much resentment at the change made in the former Convention when ratified and makes it a principal objection to having been induced to send the ratification before you had agreed to ratify it & will give express direction to
1385 · 158 · 1511 · 1453 · 849 ·
Mr Pichon not to deliver the
525 · 546 · 1446 · 408 · 849 · 1316 · 1034 · 1533 · 968 ·
ratifications in case you make the slightest
834 · 1028 · 11–1456 · 1162 · 460 · 476 · 510 · 968 · 255 · 1030 ·
alteration it is necessary you should know
1541 · 1675 · 962 · 11 · 1031 · 1467 · 606 · 476 · 365 · 1043 ·
this; it is equally necessary that those who oppose
1087 · 1031 · 1467 · 1532 · 1488 · 606 · 967 · 1090 · 678 · 422 ·
the ad ministration should not know it as it
968 · 1608 763 · 11 · 365 · 408 · 1043 · 1031 · 1657 · 1031 ·
will be a trump card in their hands.
685 · 1637 · 1699 · 869 · 316 · 35 · 139 · 1456 · 969 · 901–
I really pity Marbois
1011 · 841 · 1488 · 545 · 993 · 518 · 1126 · 1467. Instead of delivering an order they now talk of sending a special messenger, a Commissary to surrender the country, but I hope we shall induce them to change this resolution & give orders to Mr Pichon—

As it was near midnight when I left the treasury I have not been able to communicate with Mr Monroe on this subject or to tell him of the unexpected difficulties that have intervened, & as we are anxious to send off Mr Jay to morrow if they can be removed, & I have to write to Mr Madisson & we sit to adjust these matters with Mr Marbois, & with Mr Talleyrand and to sollicit a flag of truce—the morrow will be fully occupied so that I cannot defer writing till I have seen him, & indeed I am under engagements that no official letter shall be written on this subject, & with difficulty have obtained permission to mention it to you—

I mentioned to you in one of my former letters a wish to leave this this autumn but as things are now circumstanced I think it best to remain at my station till the spring unless you sh[d] order otherwise

Amendment to the Constitution.

[Jefferson Papers, series 3, vol. I, No. 59. In Jefferson's handwriting. Also series 3, vol. I, Nos. 60, 61, 62. Three copies, of which two substitute 32 degrees for 31 degrees.]

The Province of Louisiana is incorporated with the US. and made ["a" stricken out] part thereof. the rights of occupancy in the soil, and of self government, are confirmed to the Indian inhabitants, as they now exist. Preemption only of the portions rightfully occupied by them, & a succession to the occupancy of such as they may abandon, with the full rights of possession as well as of property & sovereignty in whatever is not rightfully occupied by them or shall cease to be so ["." stricken out] ^, shall belong to the US.

The legislature of the union shall have authority to exchange the right of occupancy in portions where the ["y" stricken out] US ^ have full right, for lands possessed by Indians within the US. on the East side of the Missisipi: to exchange lands on the East side of the river for those of the White inhabitants on the West side thereof and above the latitude of 31 degrees: ^ to maintain in any part of the Province such military posts as may be requisite for peace or safety: to exercise ["a" stricken out] police over all persons therein, not being Indian inhabitants: to work salt springs, or mines of coal, metals ["&" written upon "or"] other minerals within ["our own" stricken out] the ^ possessions of the US ^, or in any others with the consent of the possessors: to regulate trade & intercourse between the Indian inhabitants and all other persons: to explore and ascertain the geography of the province, it's productions and other interesting circumstances: to open

roads & navigation therein where necessary for ["for a more easy &" stricken out] beneficial communication; and to establish agencies & factories therein for the cultivation of commerce, peace & good understanding with the Indians residing there.

The legislature shall have no authority to ["open a land office for the said" stricken out] dispose of the lands of the province otherwise than is herein before permitted, until a new amendment of the constitution shall give that authority. Except as to that portion thereof which lies South of the latitude of 31. degress; which whenever they deem expedient, they may erect into a territorial government, either separate, or as making part with one on the Eastern side of the river, vesting the inhabitants thereof with all the rights possessed by other territorial citizens of the US.

[Jefferson Papers, series 3, vol. I, Nos. 63, 64.]

R[t] Smith to [Thomas Jefferson]

July. 9. 1803.

I am greatly pleased with the ideas suggested in the proposed amendment of the Constitution and I sincerely hope that they will be adopted by the legislature of the Union. But I am rather inclined to think that they ought not all to be ingrafted upon the Constitution. Your great Object is to prevent Emigrations excepting to a certain portion of the ceded territory. This would be effectually accomplished by a Constitutional prohibition that Congress should not erect or establish in that portion of the ceded territory situated North of Lat. 32 degrees any new State or territorial government and that they should not grant to any people excepting Indians any right or title whatever to any part of the said portion of the said territory. All other

powers of making exchanges, working mines &c would ["remain" stricken out] then remain in Congress to be exercised at discretion; and in the exercise of this discretion subject as it would be to the three aforementioned restrictions I do not perceive that any thing could be done which would counteract your present intentions.

The rights of occupancy in the soil ought to be secured to the Indians and government ought, in my opinion, to endeavour to obtain for them the exclusive occupation of the Northern portion of Louisiana excepting such posts as may be necessary to our trade and intercourse with them. But ought not this to be a subject of legislative provision? If the Indian rights of occupancy be a part of the Constitution might not the government be hereafter thereby much entangled? Under such a Constitutional guarantee the Indians might harass our military posts or our settlements in the southern portion or elsewhere in the most wanton manner and we could not disturb their rights of occupancy without a formal alteration of the Constitution.

Under the idea that so many & such undefined restrictions as you have proposed to be ingrafted upon the Constitution might in process of time embarrass the government and might probably not be acceptable to Congress, I have respectfully submitted to your consideration the enclosed Sketch.—

[ENCLOSURE.]

An Amendment proposed to the Constitution to be added to S. 3. Art. 4.

Louisiana being in virtue of the Treaty &c incorporated with the U. States and being thereby a part of the Territory

thereof, Congress shall have power to dispose of and make all needful rules and regulations respecting the same as fully and effectually as if the same had been at the time of the establishment of the Constitution a part of the Territory of the U. States: provided nevertheless that Congress shall not have power to erect or establish in that portion of Louisiana which is situated North of the latitude of /32/ degrees any new state or territorial government nor to grant to any Citizen or Citizens or other individual or individuals excepting Indians any right or title whatever to any part of the said portion of Louisiana until a new amendment of the Constitution shall give that authority.

[Jefferson Papers, series 3, vol. IV, No. 107.]

Albert Gallatin to The President of the United States

9th July 1803

* * * * * * *

The amendment to the Constitution is intended, I presume, for deliberation & reflection, but not for immediate decision—

[Jefferson Papers, series 1, vol. IX, No. 111. Press copy.]

Th: Jefferson to William Dunbar esq.

Washington July 17. 1803

Before you recieve this you will have heard thro' the channel of the public papers, of the cession of Louisiana by France to the US. the terms as stated in the National Intelligencer are accurate. that the treaty may be ratified in time I have found it necessary to convene Congress on the 17th of October; and it is very important for the happiness of the country that they should possess all the information

which can be obtained respecting it, that they may make the best arrangements practicable for it's good government. it is the more necessary because they will be obliged to ask from the people an amendment of the constitution authorising their recieving this province into the union, & providing for it's government; and the limitations of power which shall be given by that amendment will be unalterable but by the same authority. I have therefore sent some queries to mr Clarke of New Orleans, to be answered by such persons as he shall think best qualified, and to be returned to me before the meeting of Congress, and knowing that you have turned your attention to many of the subjects, I inclose you a copy of them, and ask the favor of you to give me what inform-ation you can in answer to such of them as you shall select as lying within the scope of your information. ⁂ ⁂

⁂ ⁂ ⁂ ⁂ ⁂ ⁂ ⁂

Th: Jefferson to Thomas Paine esq.

Monticello Aug. 10. 1803.

[Jefferson Papers, series 1, vol. IX, No. 120. Press copy. Substantially repeated in Jefferson to Breckinridge, August 12: Jefferson Papers, series 1, vol. IX, No. 123. Press copy.]

⁂ ⁂ ⁂ ⁂ ⁂ ⁂ ⁂

We shall undoubtedly lay the cession before both houses, because both have important functions to exercise on it. the representatives are to decide on the paiment of the money. besides this I believe we must lay it before the nation & ask an additional article to the Constitution. that has made no provision for holding foreign territory, & still less for incorporating foreign countries into our union. yet we have stipulated that the Louisanians shall come into our union. in ["this" stricken out] making this stipulation, the Executive has done an act beyond the constitution, and in ratifying it & paying for the country the legislature will

do the same. we must throw ourselves for this on our country, saying that we have not hesitated to do for them what we were sure they would have done for themselves, by securing a great good in the only [illegible] which it would ever have been in their power: by asking their confirmation after the act, for which they would have given previous authority had it been foreseen; acknoleging at the same time that we cannot have bound them; that they are free to reject it, and to disavow us, restoring every thing to it's former state. but I trust we shall meet their approbation, and not their disavowal.

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[Jefferson Papers, series 1, vol. IX, No. 131. Press copy. Substantially repeated in Jefferson to Paine, same date: Jefferson Papers, series 1, vol. IX, No. 130. Press copy.]

Th: Jefferson to J. Breckenridge esq.

Monticello Aug. 18. 03.

I wrote you on the 12th inst. on the subject of Louisiana, and the constitutional provision which might be necessary for it. a letter recieved yesterday shews that nothing must be said on that subject which may give a pretext for retracting; but that we should do sub silentio what shall be found necessary. be so good therefore as to consider that part of my letter as confidential. * * *

[Jefferson Papers, series 1, vol. IX, No. 132. Press copy. The substance of this and the following letter repeated in Jefferson to Gallatin, August 23: Jefferson Papers, series 1, vol. IX, No. 135. Press copy. Also in Jefferson to Lincoln, August 30: Jefferson Papers, series 1, vol. IX, No. 142. Press copy.]

Th: Jefferson to The Secretary of State

Monticello Aug. 18. 03.

I inclose you two letters from Rob. R. Livingston. that of the 2d of June is just intelligible enough in the uncyphered parts to create anxieties which perhaps the cypher may remove. I communicate them for your information, & shall be glad to recieve them decyphered. I infer that the

less we say about constitutional difficulties respecting Louisiana the better, and that what is necessary for surmounting them must be done sub silentio.

* * * * * * *

Th: Jefferson to The Secretary of State.

[Jefferson Papers, series 1, vol. IX, No. 138. Press copy.]

Monticello Aug. 25th 1803.

* * * * * * *

further reflection on the amendm[t] to the constitution necessary in the case of Louisiana, satisfies me it will be better to give general powers, with specified exceptions, somewhat in the way stated below. * * *

'Louisiana, as ceded by France to the US. is made a part of the US. it's white inhabitants shall be citizens, and stand, as to their rights and obligations on the same footing with other citizens of the US. in analogous situations.

Save only that, as to the portion thereof lying North of the latitude of the mouth of Arcansa river, no new state shall be established, nor any grants of land made therein, other than to Indians in exchange for equivalent portions of land occupied by them, until an amendment to the Constitution shall be made for these purposes.

Florida also, whensoever it may be rightfully obtained, shall become a part of the US. it's white inhabitants shall thereupon be citizens, and shall stand as to their rights & obligations on the same footing with other citizens of the US. in analogous circumstances.'

[Jefferson Papers, series 5, vol. XI, No. 53.]

Amendment to the Constitution.

Louisiana, as ceded by France to the US. is made a part of the US. ["it's white inhabitants shall be citizens, and stand, as to their rights & obligations, on the same footing with other citizens of the US. in analogous situations. Save only" stricken out] But ["that" stricken out] as to the portion thereof lying North of an East & West line drawn through the mouth of Arkansa river, no new state shall be established, nor any grants of land made, other than to Indians in exchange for equivalent portions of land occupied by them, until authorised by ["further" stricken out] subsequent ["an" stricken out] amendment to the Constitution. ["shall be made for these purposes." stricken out]

Florida also, whensoever it may be rightfully obtained, shall become a part of the US. ["US. it's white inhabitants shall thereupon be citizens, & shall stand, as to their rights & obligations, on the same footing with other citizens of the US. in analogous situations." stricken out]

[Jefferson Papers, series 2, vol. LXIII, No. 47.]

W. C. Nicholas to [Thomas Jefferson]

Warren Sept. 3. 1803

I have reflected much upon the conversation that I had with you, when I had last the pleasure of seeing you, about the power of the government of the U. S. to acquire territory, and to admit new States into the union. Upon an examination of the constitution, I find the power as broad as it cou'd well be made, 3d sec. art. 4th except that new States cannot be formed out of the old ones without the consent of the State to be dismembered; and the exception is a proof to my mind that it was not intended to confine the congress in the admission of new States to what was then the territory of the U. S. Nor do

I see any thing in the constitution, that limits the treaty making power, except the general limitations of the the powers given to the government, and the evident objects for which the government was instituted. If it is determined that congress possess exclusively, all the powers that are to be found in the enumeration of powers given to that body, it will be deciding that there does not exist in the U. S. a power competent to make a treaty, for I will venture to assert, that a treaty can not be formed, without the exercise of one or more of those powers by the President and the Senate, particularly a commercial treaty—nor does it seem to me that the sanction of congress wou'd cure the defect, & that wou'd be to give them substantially the power of ratification, or rejection. Nor do[" I believe that we es it seem to me that wou'd" stricken out] cou'd ever expect any Nation to form a treaty with us under such a construction of our constitution; for I do not see what wou'd prevent subsequent legislatures from repealing the laws upon which the validity of a treaty depended; and indeed making laws in direct violation of such a treaty, if it was admited that it derived all its force from a law. I am aware that this is to us delicate ground, and perhaps my opinions may clash with the opinions given by our friends during the discussion of the British treaty. Upon due consideration, it really appears to me that a different construction of the constitution, from that which I have given it, wou'd be to transfer the treaty making power to congress, or to deprive the gov[t] of the U. S. of the capacity of making treaties. I shou'd be wanting in the sincerity and candour with which you have always permited me to give you my opinion if I was to forbear to recommend to you, to avoid giving an opinion as to the competence of the treaty making power, to make

such a treaty as that lately entered into with France, by giving an opinion before the Senate act upon it, you wou'd take the whole responsibility of that opinion upon yourself in the public estimation, whereas if the Senate act before your opinion is known they will at least divide the responsibility with you. I shou'd think it very probable if the treaty shou'd be declared by you to exceed the constitutional authority of the treaty making power, that it wou'd be rejected by the Senate, and if that shou'd not happen, that great use wou'd be made with the people, of a wilful breach of the constitution. If you shou'd not think these observations merit the weight that I have given them, I flatter myself you will pardon the liberty that I have taken in suggesting them to you. * * *

[Jefferson Papers, series 1, vol. IX, No. 146. Press copy.]

Th: Jefferson to W. C. Nicholas

Monticello Sep. 7. 1803.

Your favor of the 3^{d} was delivered me at court: but we were much disappointed at not seeing you here, mr Madison & the Govr being here at the time. I inclose you a letter from Monroe on the subject of the late treaty. you will observe a hint in it to do without delay what we are bound to do. there is reason, in the opinion of our ministers, to believe that if the thing were to do over again, it could not be obtained; & that if we give the least opening they will declare the treaty void. a warning amounting to that has been given to them, & an unusual kind of letter written by their minister to our Secretary of state direct. whatever Congress shall think it necessary to do, should be done with as little debate as possible; & particularly so far as respects the constitutional diffi-

culty. I am aware of the force of the observations you make on the power given by the Constn to Congress to admit new states into the Union, without restraining ["it to" stricken out] the subject to the territory then constituting the US. but when I consider that the limits of the US. are precisely fixed by the treaty of 1783. that the constitution expressly declares itself to be made for the US. I cannot help believing the intention was to permit Congress to admit into the union new states which should be formed out of the territory for which & under whose authority alone they were then acting. I do not believe it was meant that they might recieve England, Ireland, Holland &c into it, which would be the case on your construction. when an instrument admits two constructions the one safe, the other dangerous, the one precise the other indefinite, I prefer that which is safe & precise. I had rather ask an enlargement of power from the nation where it is found necessary, than to assume it by a construction which would make our powers boundless. our peculiar ["happiness" stricken out] security is in the possession of a written constitution. let us not make it a blank paper by construction. I say the same as to the opinion of those who consider the grant of the treaty making power as boundless. if it is, then we have no constitution. if it has bounds, they can be no others than the definitions of the powers which that instrument gives. it specifies & delineates the operations permitted to the federal government, and gives all the powers necessary to carry these into execution. whatever of these enumerated objects is proper for a law, Congress ["is to" stricken out] may make the law, whatever is proper to be executed by way of a treaty, the President & Senate may enter into the treaty; whatever is to be done by a judicial sentence,

the judges may pass the sentence. nothing is more likely than that their enumeration of powers is defective. this is the ordinary case of all human works. let us go on then perfecting it, by adding by way of amendment to the constitution, those powers which time & trial shew are still wanting. but it has been taken too much for granted that by this rigorous construction the treaty power would be ["abridged" stricken out] reduced to nothing. I had occasion once to examine it's effect on the French treaty made by the old Congress, & found that out of thirty odd articles which that contained there were one, two, or three only which could not now be stipulated under our present constitution. I confess then I think it important in the present case to set an example against broad construction by appealing for new power to the people. if however our friends shall think differently, certainly I shall acquiesce with satisfaction, confiding that the good sense of our country will correct the evil of construction when it shall produce ill effects.—

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[Hamilton Papers, vol. XVIII, p. 210. Copy. Also, id., p. 207. Copy.]

A Hamilton to Timothy Pickering Esqr—

New York Septr 16th 1803

I will make no apology for my delay in answering your inquiry some time since made, because I could offer none which would satisfy myself. I pray you only to believe that it proceeded from any thing rather than want of respect or regard. I shall now comply with your request—The highest toned propositions, which I made in the Convention, were for a President, Senate and Judges during good behaviour—a house of representatives for three years. Though I would

have enlarged the Legislative power of the General Government, yet I never contemplated the abolition of the state Governments; but on the contrary, they were, in some particulars, constituent parts of my plan—This plan was in my conception conformable with the strict theory of a Government purely republican; the essential criteria of which are that the principal organs of the Executive and Legislative departments be elected by the people and hold their offices by a responsible and temporary or defeasible tenure—A vote was taken on the proposition respecting the Executive— Five states were in favour of it; among these Virginia; and though from the manner of voting, by delegations, individuals were not distinguished, it was morally certain, from the known situation of the Virginia members (six in number, two of them Mason and Randolph professing popular doctrines) that Madison must have concurred in the vote of Virginia—Thus, if I sinned against Republicanism, Mr Madison was not less guilty—I may truly then say, that I never proposed either a President, or Senate for life, and that I neither recommended nor meditated the annihilation of the State Governments—And I may add, that in the course of the discussions in the Convention, neither the propositions thrown out for debate, nor even those voted in the earlier stages of deliberation were considered as evidences of a definitive opinion in the proposer or voter. It appeared to me to be in some sort understood, that with a view to free investigation, experimental propositions might be made, which were to be received merely as suggestions for consideration—Accordingly, it is a fact, that my final opinion was against an Executive during good behaviour, on account of the increased danger to the public tranquilly incident to

the election of a Magistrate of this degree of permanency. In the plan of a Constitution, which I drew up while the convention was sitting, and which I communicated to M[r] Madison about the close of it, perhaps a day or two after, the office of President has no greater duration than for three years— This plan was predicated upon these bases— 1. That the political principles of the people of this country would endure nothing but republican government—2. That in the actual situation of the country, it was in itself right and proper that the republican theory should have a fair and full trial—3. That to such a trial it was essential that the Government should be so constructed as to give all the energy and stability reconcileable with the principles of that theory. These were the genuine sentiments of my heart, and upon them I acted. I sincerely hope, that it may not hereafter be discovered, that through want of sufficient attention to the last idea, the experiment of Republican Government, even in this country, has not been as complete, as satisfactory and as decisive as could be wished—

[Jefferson Papers, series 2, vol. LXV, No. 194.]

Thomas Paine to [Thomas Jefferson]

Stonnington, Connecticut, Sep[r] 23.

Your two favours of the 10, & 18 Ult. reached me at this place on the 14 Inst, also one from M[r] Madison. I do not suppose that the framers of the Constitution thought any thing about the acquisition of new territory, and even if they did it was prudent to say nothing about it, as it might have suggested to foreign Nations the Idea that we contemplated foreign Conquest. It appears to me to be one of those cases with which the Constitution had nothing to do, and which

can be judged of only by the circumstances of the times when such a case shall occur. The Constitution could not foresee that Spain would cede Louisania to France or to England, and therefore it could not determine what our conduct should be in consequence of ["it" stricken out] such an event. The Cession makes no alteration in the Constitution; it only extends the principles of it over a larger territory, and this certainly is within the Morality of the Constitution, and not contrary to, nor beyond, the expression or intention of any of its Articles. That the Idea of extending the territory of the United States was always contemplated, whenever the opportunity offered itself, is, I think, evident from the opinion that has existed from the commencement of the Revolution that Canada would, at some time or other, become a part of the United States; and there is an Article either in the treaty with France (I have not the treaty by me) or in some correspondence with that Government, that in case of a Conquest of Canada by the assistance of France, Canada should become a part of the United States, and therefore the Cession of Louisania says no more than what was said before with respect to Canada. The only difference between the two cases, for with respect to the Constitution there is none, is, that the first, that of Canada, was generous; and the stipulation, that the Louisanians shall come into our Union was politic. It precludes us from selling the territory to another power that might become the enemy of France or Spain or both. It was like saying I will sell the territory to you for so much on Condition that it is for yourselves, but not as land-jobbers to sell it again. It is an Item in the purchase with which the Constitution has nothing to do, and it would only confuse and puzzle the people to know why it was questioned. I was

very glad to see by your second letter that the Idea was given up, and I hope that my remarks upon it will be acceptable.

Were a question to arise it would apply, not to the Cession; because it violates no Article of the Constitution, but to Ross and Morris's Motion. The Constitution empowers Congress to declare War, but to make war without declaring it is anti-constitutional. It is like attacking [an unarmed "a" stricken out] man in the dark.

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[Hamilton Papers, vol. XVI. p. 89.]

Timothy Pickering to General Hamilton. New-York

City of Washington Oct. 18. 1803

I hoped to have seen you on my way hither; but the distance at which you were from the place of crossing the Hudson, & my engagements with my travelling companions, prevented.

I duly received your letter of Sept[r] 16th relative to the propositions you made in the General Convention. It was obvious, that those, with the propositions of others, were presented for consideration and discussion, to be adopted or rejected, as a sense of the public safety should require; and by no means as the definitive opinions of the movers.

Dining in company with General Pinckney, as he passed thro' Salem, in September, I was asked, by one of the guests, some question concerning the nature of the propositions you made in the General Convention. I referred the enquirer to the General, who was a member.—He answered, That you proposed, that the Governors of the several states should be appointed by the President of the U States: But that M[r] Madison

moved, and was seconded by his cousin Charles Pinckney, That all the laws of the individual states should be subject to the negative of the ["Presid" stricken out] Chief Executive of the U. States. The General added, That he did not know which would be deemed the strongest measure.

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Thos M:Kean to His Excellency Thomas Jefferson Esq; [Jefferson Papers, series 2, vol. LIX, No. 46.]

Lancaster. Janry 8th 1804.

Private.

Yesterday I signed the Act, to ratify, on behalf of the State of Pennsylvania, an Amendment to the Constitution of the United States, relative to the choosing of a President and Vice-President of the United States. There were but nine Nays in the House of Representatives and one in our Senate, on this occasion. [Doc. Hist., II, 423.]

The speech of Mr Tracy in the Senate of the U. S. was sent to me, with a Letter, from that Gentleman, and also by Mr Pickering; both letters dated the 19th of Decemr last: It is presumable others, of the like import, have been received by some of the Members of our Legislature. The first named Gentleman is a stranger to me, and I have not had any visit, or communication by letter or words from the latter, since I have been Governor of this State. From these circumstances it may be fairly conjectured, that no pains will be omitted in obstructing the adoption of this Amendment in other States; for these Gentlemen seem to think it an all important and dangerous measure.

I confess, I can perceive nothing dangerous or improper in the proposed Amendment, unless the precedent may

encourage a too frequent attempt of the like kind, when no real necessity demands it. In this instance, a casus omissus in the Constitution is supplied, an interregnum prevented, a species of intrigue defeated and civil commotions kept at a distance. I wish the Amendment had been expressed in a more grammatical manner, tho' I think the true construction of it cannot be misunderstood: In strictness, the relative refers to the next antecedent, and the words, "not exceeding three," might be strained to relate to the word["s" stricken out], "numbers," so that the House of Representatives will be confined to the choice of a President, who had not more than three votes from the Electors. This observation may be endured in a strict Gramarian, but would be deemed a quibble in a lawyer, and hooted at by all men of plain common sense; and yet this is said by Mr Pickering to have been demonstrated as unintelligible in the Senate, by the diversity of constructions put upon it.

We shall, if this amendment shall be adopted by thirteen States, /which I believe it will, tho' probably no more, unless the effects of party shall in the mean time cease/ have our next President and Vice-President genuine Republicans, otherwise I doubt it. Several Gentlemen of the Republican party have wished to use my name as a Candidate for Vice-President, but I have absolutely declined it on public & personal considerations, and my reasons seem to have given satisfaction: As to the highest honor, it has never ^been hinted to me by any man, nor shall be without a positive denial: the Republicans will not think of it, and the Federalists will not so insult me as to propose it.

T Worthington to The president of the U States [Jefferson Papers, series 2, vol. LXXXV, No. 55.]

Washington Jany 17th 1804

I am requested by the Governor of Ohio to enclose to you a resolution passed by the Legislature of that State

You have no doubt been informed of the agreement of that Legislature to the amendment proposed to the constitution of the United States The law giveing their assent to [Doc. Hist., II, 418.] the amendment has been officially transmitted by the Governor to the Speaker of the H of Representatives of the U. States & by that house deposited in the office of the Sec^{y} of State—

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Th: Jefferson to H. E. Govern^{r} McKain [Jefferson Papers, series 1, vol. X, No. 3. Press copy.]

Washington Jan. 17. 1804.

I have duly recieved your favor of the 8th but the act of ratification which it announces is not yet come to hand. no doubt it is on it's way. that great opposition is and will be made by federalists to this amendment is certain. they know that if it prevails, neither a Presid^{t} or Vice President can ever be made but by the fair vote of the majority of the nation, of which they are not. that either their opposition to the principle of discrimination now, or their advocation of it formerly was on party, not moral motives, they cannot deny. consequently they fix for themselves the place in the scale of moral rectitude to which they are entitled. I am a friend to the discriminating principle; and for a reason more than others have, ["that" stricken out] inasmuch as the discriminated vote of my constituents will express unequivocally the verdict they wish to pass on my conduct. * * *

[Madison Papers, vol. XXVI, p. 139. Jefferson Papers, series 1, vol. X, No. 128. Press copy.]

Th: J. to J. M.

Monticello Aug. 3. 04.

I inclose you the S. Carolina ratification of the amendment to the constitution, & presume it possible that in a week more you may recieve that of Tennisee, after which I suppose no time should be lost in publishing officially the final ratification. * * *

[See Appendix.]

[Jefferson Papers, series 3, vol. IX, No. 5.]

James Madison to The President

Aug. 13. 1804

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Before I left Washington a circular letter was prepared & the requisite provisional steps taken for giving effect to the proposed amendment as soon as the ratification of Tennissee should be notified. As that has come to me thro' the office I take for granted that no time was lost in issuing the documents lying ready for the event.

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[Madison Papers, vol. XXVI, p. 144.]

Jacob Wagner to M[r] Madison

Department of State 16 Augt. 1804.

[Doc. Hist., II, 447.]

Yesterday came to hand an exemplification of the Act of Tennessee approving the amendment of the constitution respecting the choice of President &[c] Nothing therefore is wanting to authorize the official notification of the amendment being constitutionally ratified but the exemplification of the Act of Georgia upon the subject, which we have not hitherto received. As it is not to be imagined that it is in the President's possession, permit me to suggest, whether it might not be necessary to request Governor Milledge to forward it.

[Doc. Hist., II, 440.]

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Commonwealth of Massachusetts.

[Jefferson Papers, series 2, vol. LXXVII, No. 102. Print.]

IN SENATE, FEBRUARY 11, 1808.

RESOLVED—*That the Senators and Representatives of this Commonwealth, in the Congress of the United States, be, and they hereby are requested, to use their best endeavors to procure such an amendment to the Constitution of the United States, as will empower the President of the United States to remove from office any of the Judges of the Courts of the United States, upon an address to him made for that purpose, by a majority of the House of Representatives, and two thirds of the Senate, in Congress assembled.*

RESOLVED—*That the Governor be, and he hereby is requested, to transmit the foregoing resolution to each of the Senators and Representatives from this Commonwealth, in the Congress of the United States; also to the Governor of the State of Vermont, to be laid before the General Assembly of that State.*

Sent down for concurrence.

SAMUEL DANA, *President.*

In the House of Representatives, March 1, 1808,

Read and concurred.

PEREZ MORTON, *Speaker.*

March 2, 1808—By the Governor approved.

JAMES SULLIVAN.

True Copy. *Attest,*

JON^{N} L AUSTIN SEC^{Y}

[Madison Papers vol. VI, p. 151.]

James Madison to [Thomas Jefferson]

Montpelier July 17. 1810.

Among the papers relating to the Convention of 1787. communicated to you, that copies in your hands might double the security agst destructive casualties, was a delineation of Hamilton's plan of a Constitution in his own writing. On looking for it among the Debates &c, which were returned to me, this particular paper does not appear.× I conclude therefore, that it had not then been copied, or was at the time in some separate situation. I$^{am}_{\wedge}$ very sorry to trouble you on such a subject, but being under an engagement to furnish a Copy of that project, I must ask the favor of you to see whether it be not among your papers; & if so, to forward it by the mail.

× afterwards found [The paper referred to is not in the Bureau of Rolls and Library. See Doc. Hist., IV, 212, marginal note.]

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[Madison Papers, vol. XL, p. 49.]

Jno: W: Eppes to James Madison President of the U. States

Cumberland Near Ca-Ira Nov. 1. 1810

My absence from Chesterfield prevented my receiving your letter until a few days since—

When the papers relating to the proceedings of the convention were put into my hands for the purpose of being copied Mr Jefferson was very particular in his charge—I understood from him perfectly that it was a trust entirely confidential—The particular and confidential manner in which he entrusted them to me prevented my making the smallest extract from any part of them—and so careful was I of preserving sacred a document the importance of which to posterity I could not but feel, that I never suffered the papers to mix either with my own or any others entrusted

to my care—They were kept in a Trunk in which whenever I ceased writing they were replaced and each original as copied was returned with the copy to Mr Jefferson—

I remember among the papers one headed "plan of a constitution by Colo: Hamilton"—it was on smaller paper than your copy and fastened with a pin to one of the leaves of the original—Whether it was in your hand writing or Colo: Hamiltons I do not remember—I remember its features & that after copying it I fastened it again with the same pin—I still think that by turning carefully over the original you will find the paper fastened with a pin to one of the sheets—

I have but few papers remaining of those I possessed in Philadelphia—As you requested it I have carefully gone through them—I was certain however prior to the search that it was utterly impossible from the precautions I took in consequence of Mr Jeffersons charge that any paper belonging to your manuscript could be mixed with mine—For years after the copy was taken so far did I consider the whole transaction on my part confidential that I did not even consider myself at liberty to mention that a copy of the debates of the convention existed—It was not until within a few years since when I found the fact known to others through yourself and Mr Jefferson that I thought it unnecessary to impose on myself the same rigid silence—I should as a member of the community deeply deplore the loss of the paper as it contains proof clear as holy writ that the idol of the Federal party was not a Monarchist in Theory merely, but the open zealous and unreserved advocate for ["it" stricken out] the adoption of the monarchical system in this Country—Your evidence however of the fact will be sufficient with posterity; and that you will find among the origi-

nals a paper headed in the way I mention containing his plan of Government as suggested to you I have no doubt—

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[Jefferson Papers, series 2, vol. III, No. 5.]

John Adams to Mr Jefferson

Quincy, May 3. 1812

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The transition from one Set of crazy people to another is not unnatural. There were two Gentlemen in the Senate of The United States together for several years, who became very intimate Friends and uncommonly fond of each other. These were Mr Pickering and Mr Hillhouse. They were understood by the Circle in Boston, who were in the Confidence of the former, to be perfectly united in opinion. The latter made no Secret of his Opinion, that an Amputation, and a Surgical Operation as he called it, was become necessary and he made a motion in Senate, for an Amendment of the Constitution which was indeed a total alteration of it to as absurd and as arbitrary an Aristocracy as ever was imagined. This plan he published in a Pamphlet. P.'s friends in Boston at first gave out that he perfectly concurred with H. in this project, and I heard some of them say, that they went along with them throughout. I immediately wrote an Examination of it, and put it into the hands of the Anthologists for publication: but as I had made pretty free with some of their favourites they declined printing it. But that Manuscript or something else, put them so out of conceit of it, that they immediately hushed it into oblivion. This Project of a new constitution, which you must remember, was supposed to be intended for the Arm or the Leg, or the

head or the Tail that was to be cut off by the chirurgical operation. I have heard that Mr P. once on his Journey to the Senate of U. S. carried with him from his friends in Boston a Project of a Division by the Potomac, the Delaware or the Hudson i. e as far as they could succeed, and communicated it to Gen. Hamilton who could not see his way clear, and to Mr King, who liked it as little. * * *

J. M.[adison] to Monroe President of the U S

[Madison Papers, vol. VII, p. 133. Draft.]

Montpellier Novr 29. 1817

Your favor of the 24th has just been recd I am fully aware of the load of business on your hands preparatory to the meeting of Congress. The course you mean to take in relation to Roads ∧ Canals, ["&c." stricken out] appears to ["be the eligible be most" stricken out] be best adapted to the posture in which you find the ["business" stricken out] case ["subject" stricken out] ∧. A reluctance has generally been felt to include amendments to the Constitution among Executive recommendations to Congs, ["and ["it" stricken out] there is certainly much delicacy task to but it ["much" stricken out] is certainly much" stricken out] preferable to ["an arrest of the" stricken out] deliberations ["of Congress" stricken out], by ["a previous disclosure ["obstructing their pending" stricken out] arresting their a notice that the result will be negatived, or to meeting that a negative will be; or to" stricken out] the result with an ∧ unexpected negative. For myself, I had not supposed that my view+ of the Constitution, ["on this subject" stricken out] could have been unknown, and I felt with great force the delicacy of giving intimations of it, to be used as a bar or a clog ∧ to a depending measure.

+See Hamiltons ["opinion" stricken out] corresponding opinion in his Argt for the Bank power, published in his works in 3 vols.

The expediency of vesting in Cong[s] a power ["to" stricken out] as to roads & Canals I have never doubted, and there has never been a moment when such a proposition to the States was ["more" stricken out] so likely to be approved. ["The expediency of" stricken out] A general power to establish Seminaries, being less obvious, and affecting ["much" stricken out] more the equilibrium of influence between the National & State Gov[ts] is a ["far" stricken out] more critical experiment. The feelings awakened by the proposed University within the Congressional District, are a proof of the opposition which may be looked for. I should consider it as at least essential that the two propositions whatever may be the modification of the latter sh[d] be so distinct, that the rejection of the one by the States should not be inconsistent with the ["ratification of" stricken out] adoption of the other.

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[Madison Papers, vol. VII, p. 136. Draft.]

[James Madison] to J Q. Adams

Montpellier Dec[r] 23. 1817

* * * * * * *

I have looked over & return the letters from Gov[r] Plumer and his son. ["The plan of a work sketched" stricken out] The work conceived by the latter, and the manner in which he has presented an outline of it, indicate talents ["are a favorable" stricken out] indication of ["his talents" stricken out] which ["seem to" stricken out] merit cultivation & encouragement. The best answer I can give to your communication on the subject of his wish for a copy of the Journal of the Convention, is to ["inform" stricken out] state the circumstance, that at the close of the Convention, the question having arisen what was to be done with the Journal & other papers, and it being suggested that they ought to be either des-

troyed or deposited in the Custody of the Presid[t] it was determined that they should remain in his hands subject only to the orders of the National Legislature.—Whether a publication of them ought to be ["of the document ought or ought not" stricken out] ^["ought to be" stricken out] promoted, as having a useful tendency, you will probably be better able to decide, on a perusal of ["the" written upon "it"] document than one who can not take the same abstract view of the subject.

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Jacob Gideon, jun[r] to The Honorable James Madison. late President of the U. States Montpelier Virginia. [Madison Papers, vol. LX, p. 88.]

City of Washington, Jan[y] 19, 1818.

Being about to commence the publication of new Edition of that highly estimable work, the "Federalist," within the district of Columbia, I have taken the liberty of inclosing herewith, a list of the several numbers composing that valuable book, with a request that you would do me the favor of adding the names of the authors to their respective numbers. I am induced to make this request of you, Sir, from the circumstance of your being the only one now remaining, who took pat in that interesting discussion.

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J. M[adison] to Jacob Gideon Jun[r] [Madison Papers, vol. VII, p. 140. Draft.]

Montpellier 28. ["1818" stricken out] January 1818

I have rec[d] your letter of the 19th ["and" stricken out] and in consequence of the request it makes, I send you a copy of the 1st Edition of the "Federali["st" written upon "ts"]", with the names of the writers prefixed to their respective numbers. Not being on the spot, when it was

in the press, the errors ["did not receive the correction, which" stricken out] ["corrected were not corrected which" ["which have been" erased] you will find in the numbers" stricken out] now ["^" erased] noted in mine were not then corrected. You will be so good as to return the 2 vols when convenient to you.

* * * * * * *

[On a separate sheet.]

Marginal Note by J. M. to the 18th Nº of the Federalist in a copy of the work sent to Jacob Gideon.

"The subject of this, and the two following numbers, happened to be taken up by both Mr H. and Mr M. What had been prepared by Mr H. who had entered more briefly into the subject, was left with Mr M. on its appearing that the latter was engaged in it with larger materials and with a view to a more precise delineation; & from the pen of the latter, the several papers went to the Press.

[Madison Papers, vol. LX, p. 96.]

Jacob Gideon, jr to The Hon. James Madison.

Washington, Feb'y. 12, 1818.

It is with no small degree of satisfaction I acknowledge the receipt of you kind favor of the 28th ultimo, forwarding me your copy of the "Federalist,"—with the names of the authors affixed to the several numbers,—for which you will be pleased to accept my thanks. Circumstances make it necessary, that, with your consent, ["that" stricken out] I should retain it, as I will have to print your numbers from that Copy; if, however, you should not wish it destroyed, I will readily comply with your directions, & return it.

I wish to tresspass further upon your kindness, Sir, by requsting that you would permit to use, the words, "revised & corrected," by yourself, in my title page. I think it necessary that this should be done, as I find upon examination,

that the errors you have corrected in the text,—have never been made in any of the Editions printed since the one of 1799.

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[James Madison] to Jacob Gideon [Madison Papers, vol. VIII, p. 3. Draft.]

Montpellier Feby 20. 1818

I have rec^{d} your letter of the 12th You are welcome to the Copy of the Federalist sent you. If you refer to it in your proposed Edition, it will be more proper to [“state” stricken out] the fact that the numbers with my name prefixed were published from a Copy containing corrections in my hand, than to use the [“words” stricken out] “revised & corrected by [“J M” written upon “me”]” which would imply a more careful & professed revisal, than is [“than might be” stricken out] warranted by strict truth.

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J. M.[adison] to M^{r} [James K.] Paulding at Washington [Madison Papers, vol. VIII, p. 7. Draft.]

Montp^{r} July 23.

I return your Copy of Gideon's Edition of the Federalist, with the memorandum requested in your note of the 16th I shall take pleasure in adding any other circumstances which you may wish to know, and I may be able to [“recollect.” stricken out] communicate.

* * * * * * *

The following memorandum complies with Mr Paulding's request of the 16th instant.

The papers under the Title of “Federalist,” and signature of “Publius” were written by A. H. J. M. & J. J. in the latter part of the year 1787—& the former part of the year 1788. The immediate object of them was to vindicate & recommend

the new Constitution to the State of N. Y. whose ratification of the instrument, was doubtful as well as important. The undertaking was proposed by A. H. ["to J. M." stricken out] (who had probably consulted with Mr Jay & others) to J. M, ["with an invitation" stricken out] who agreed to take a part in it. The papers were originally addressed to the people of N. Y. under the signature of a "Citizen of N. Y." This was changed for that of "Publius" the first name of Valerius Publicola. A reason for the change was that one of the writers was not a Citizen of that State; another that the publication had [illegible word and "spread" stricken out] diffused itself among most of the other States. The papers were first published at N. Y. in a Newspaper printed by Francis Childs, at the rate during great part of the time at least of four numbers a week; and notwithstanding this exertion, they were not compleated till ["a large number of most" stricken out] a large proportion of the States had decided on the Constitution. They were ["pretty generally republished in the gazettes out of the State of N. Y. which were friendly to the Constitution; and were" stricken out] edited as soon as possible in two small vol^s the preface to the 1st vol: drawn up by Mr H. bearing date N. York Mar. 1788.— In a publication at N. Y. in 1810, entitled "the Works of A. H. is comprized an Edition of the Fed^list in which the names of the writers are erroneously prefixed to a number of the papers. These errors are corrected in this Edition by Jacob Gideon J^r ["in" stricken out] wch the papers ["respectively" stricken out] ["assigns to each author the papers actually written" stricken out] assigns to the authors of several their respective shares in them.

["The above memorandum complies with Mr Paulding's request of the 16th instant" stricken out]

Montpellier. July 24. 1818. J. M.

J. M.[adison] to Robert Walsh

[Madison Papers, vol. VIII, p. 42. Copy.]

Montpellier Novr 27–1819

Your letter of the 11th was duly rec^d^, and I should have given it a less tardy answer, but for a succession of particular demands on my attention, and a wish to assist my recollections, by consulting both manuscript & printed sources of information on the subjects of your enquir["y" written upon "ies" stricken out]. Of these, however, I have not been able to avail myself, but very partially.

As to the intention of the framers of the Constitution in the clause relating to "the migration and importation of "persons &c" the best key may perhaps be found in the case which produced it. The African trade in slaves had long been odious to most of the States, and the importation of slaves into them had been prohibited. Particular States however continued the importion, and were extremely averse to any restriction on their power to do so. In the Convention the former States were anxious, in framing a new constitution, to insert a provision for an immediate and absolute stop to the trade. The latter were not only averse to any interference on the subject; but solemnly declared that their constituents would never accede to a constitution containing such an article. Out of this conflict grew the middle measure providing that Congress should not interfere until the year 1808; with an implication, that after that date, they might prohibit the importation of slaves into the States then existing, & previous thereto, into the States not then existing. Such was the tone of opposition in the States of S. Carolina & Georgia, & such the desire to gain their acquiescence in a prohibitory power, that on a question

between the epochs of 1800 & 1808, the States of N. Hampshire, Massa^{tts} & Connecticut, (all the eastern States in the convention); joined in the vote for the latter, influenced however by the collateral motive of reconciling those particular States to the power over commerce & navigation; against which they felt, as did some other States, a very strong repugnance. The earnestness of S. Carolina & Georgia was further manifested by their insisting on the security in the V. article, against any amendment to the Constitution affecting the right reserved to them, & their uniting with the small states who insisted on a like security for their equality in the Senate.

But some of the States were not only anxious for a constitutional provision against the introduction of Slaves. They had scruples against admitting the term "Slaves" into the Instrument. Hence the descriptive phrase "migration or importation of persons"; the term migration allowing those who were scrupulous of acknowledging expressly a property in human beings, to view imported persons as a species of emigrants, whilst others might apply the term to foreign malefactors sent or coming into the country. It is possible tho' not recollected, that some might have had an eye to the case of freed blacks, as well as malefactors.

But whatever may have been intended by the term "migration" or the term "persons", it is most certain, that they referred, exclusively, to a migration or importation from other countries into the U. States; and not to a removal, voluntary or involuntary, of Slaves or freemen, from one to another part of the U. States. Nothing appears or is recollected that warrants this latter intention. Nothing in the

proceedings of the State conventions indicates such a construction there.* Had such been the construction it is easy to imagine the figure it would have made in many of the states, among the objections to the constitution, and among the numerous amendments to it proposed by the state conventions,* not one of which amendments refers to the clause in question. * * *

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It falls within the scope of your enquiry, to state the fact, that there was a proposition in the convention, to discriminate between the old and new States, by an article in the Constitution declaring that the aggregate number of repre-

* The debates of the Pennsylvania convention contain a speech of Mr Wilson* (Decr 3—1787) who had been a member of the general convention, in which, alluding to the clause tolerating for a time, the further importation of Slaves, he consoles himself "with the hope that in a few years it would be prohibited altogether; observing that in the mean time, the new "States which were to be formed would be under the controul of Congress in this particular, and slaves would never be introduced among them." In another speech on the day following and alluding to the same clause, his words are "yet the lapse of a few years & Congress will have power to exterminate slavery within our borders." How far the language of Mr W. may have been accurately reported is not known. The expressions used, are more vague & less consistent than would be readily ascribed to him. But as they stand, the fairest construction would be, that he considered the power given to Congress, to arrest the importation of Slaves as "laying a foundation for banishing slavery out of "of the country; & tho at a period more distant than might be wished, producing the same kind "gradual change which was pursued in Pennsylvania" (see his Speech page 90 of the Debates). By this "change" after the example of Pennsylvania, he must have meant a change by the other States influenced by that example, & yeilding to the general way of thinking & feeling, produced by the policy of putting an end to the importation of slaves. He could not mean by "banishing slavery," more than by a power "to exterminate it," that Congress were authorized to do what is lit["t" stricken out]erally expressed.

* In the Convention of Virga the opposition to the Constitution comprized a number of the ablest men in the State. Among them were Mr Henry & Col Mason, both of them distinguished by their acuteness, and anxious to display unpopular constructions. One of them Col Mason had been a member of the general convention, and entered freely into accounts of what passed within it. Yet neither of them, nor indeed any of the other opponents, among the multitude of their objections, and far fetched interpretations, ever hinted, in the debates on the 9th Sect of Ar. I. at a power given by it, to prohibit an interior migration of any sort. The meaning of the Sect as levelled against migrations or importations from abroad was not contested.

*See letter of J. M. to Mr Walsh Jany 11. 1820.

sentatives from the states thereafter to be admitted, should never exceed that of the states originally adopting the Constitution. The proposition happily was rejected. The effect of such a descrimination, is sufficiently evident.

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[Madison Papers, vol. VIII, p. 50. Draft.]

[James Madison] to Robert Walsh Phil[a]

Montp[r] Jany 11. 1820.

I have rec[d] your fav[r] of the 2[d] with the pamphlet on the Missouri question, and return my thanks for your politeness in the communication.

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It is far from my purpose to ["enter into the discussion, having" stricken out] resume a subject on which I have perhaps already exceeded the proper limits. But having spoken with so confident a recollection of the meaning attached by the Convention to the term "migration" which seems to be an important hinge in the argument, I may be permitted merely to remark that M[r] Wilson,* with the proceedings of that assembly fresh on his mind, distinctly applies the term to ["free" stricken out] persons coming to the U. S. from abroad, (see his printed speech ["in the State Pen[a] Convention)" stricken out] ["and" stricken out] p. 59): and that a consistency of the passage cited from the Federalist with my recollections, is preserved by the discriminating term "beneficial" added to "voluntary emigrations from Europe to America"

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* See letter of J. M. to M[r] Walsh of Nov[r] 27. 1819.

J. M[adison] to President Monroe

[Madison Papers, vol. VIII, p. 52. Draft.]

Monp[r] Feb[y] 10. 1820.

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I have been truly astonished at some of the doctrines and declarations to which the Missouri question has led; and particularly so at the interpretation put on the terms "migration or importation &c". Judging from my own impressions I sh[d] deem it impossible ["for" stricken out] that the memory of any one who was a member of the Gen[l] Convention, could favor an opinion that the terms did not ["there" stricken out] exclusively refer to migration & importation, into the U. S. Had they been understood in that Body in the sense now put on them, it is easy to conceive the alienation they would have created there in certain States: and no one can decide better than yourself the effect they would had in the State conventions, if such a meaning had been avowed by the advocates of the Constitution. If a suspicion had existed of such a construction, it w[d] at least have made a conspicuous figure among the amendments proposed to the Instrument

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J. M.[adison] to J. Q. Adams Esqr

[Madison Papers, vol. VIII, p. 65. Draft. Also fair copy on same page.]

Montp[r] June 13 1820

I have rec[d] & return my thanks for your polite favor ["of May 27." stricken out] accompanying the Copy of the printed Journal of the Federal Convention transmitted in pursuance of a late Resolution of Congress.

["I have looked very little into this printed Journal: but" stricken out] In turning over a few pages of the Journal, which is all I have done a casual glance ["has" stricken out] caught a passage which erroneously prefixes my my name, to ["a" stricken out] ye proposition ["for" stricken out] made on the

7th day of Sepr for making a Council of six members a part of the Executive branch of the Govt The proposition was made by Col: George Mason one of the Virga delegates, & seconded by Dr Franklin. I cannot be mistaken in the fact: For besides my recollection which is sufficiently distinct on the subject, my notes contain the observations ["made by" stricken out] each of ["both" stricken out] in support of the proposition. ["The only part I bore in it, was merely that of promoting a fair consideraton of the object of my colleague" stricken out] ["favoring" stricken out]

["The error I presume must have had its origin in some" stricken out] ["source" stricken out] As the original journal according to my extract from it, does not name the mover of ye propn the error, I presume must have had its source in some ∧of the extrinsic communications to you; unless indeed it was found in some of the separate papers of the Secretary of the Convention: ["In either case, if not then to be ascribed to a the copying pen it probably resulted from" stricken out] or is to be ascribed to a copying pen. The ["affinity" stricken out] ∧degree of symphony in the two names Madison & Mason ∧ may possibly have contributed to the substitution of the one for the other.

This explanation having a reference to others as well as myself, I have thought it wd be neither improper nor unacceptable.

[Madison Papers, vol. VIII, p. .94. Draft.]

J. M.[adison] to Mr [Joseph] Gales

Montpr Aug. 26. 1821

I thank you for your friendly ["favor" stricken out] of the 20th inclosing an extract from ["the" stricken out] notes ["of" stricken out] by Judge Yates, of debates in the Convention of 1787, as published in a N. Y. paper*. The letter did not come to hand till yesterday. letter

If the extract be a fair sample, the work about to be pub-

*Commercial Advertizer, Aug: 18. 1821

lished will not have the value claimed for it. Who can believe that so palpable a mistatement ["could have been" was stricken out] made on the floor of the Convention, as that the several States were political Societies, varying from the lowest Corporation to the highest Sovereign; or that the States had vested all the essential rights of sovereignty in the Old Congress? This intrinsic evidence alone ought to satisfy every candid reader of the extreme incorrectness of the passage in question. As to the remark that the States ought to be under the controul of the Gen! Gov! at least as much as they formerly were under the King & B. parliament, it amounts as it stands when taken in ["the sense, which it will well admit" its presumable meaning stricken out], to nothing more than what actually makes a part of the Constitution; the powers of Cong^s being much greater, especially ["over" on stricken out] the great points of taxation & trade than the B. Legislature were ever permitted to exercise.

Whatever may have been the personal worth of the 2 delegates from whom the materials in this case were derived, it cannot be unknown that they represented the strong prejudices in N. Y. ag^st the object of the Convention which was ["to transfer to the" among other things to stricken out] take from that State the important power over its commerce to which it was peculiarly attach["ed," written upon "ment" "had been evinced," stricken out] and that they manifested, untill they withdrew from the Convention, the strongest feelings of dissatisfaction ag^st the contemplated change in the federal system and as may be supposed, ag^st those most active in promoting it. Besides misapprehensions of the ear therefore, the attention of the note taker w^d naturally be warped, as far at least as, an upright mind could be warped, to an unfavorable understanding of what was said in opposition to the prejudices felt.

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[Madison Papers, vol. VIII, p. 105. Draft.]

[James Madison] to Th^s^ Ritchie

Montpel^r^ Sepr 15 1821

(Confidential)

I have rec^d^ yours of the 8th instant on the subject of the proceedings of the convention of 1787.

It is true as the public has been led to understand, that I possess materials for a pretty ample view of what passed in that Assembly. It is true also that it has not been my intention that they should for ever remain under the veil of secresy. Of the time when it might be ["proper" stricken out] not improper for them to see the light, I had formed no["t" erased] particular determination. In general it had appeared to me that it might be best to let the work be a posthumous one; or at least that its publication should be delayed till the Constitution should be well settled by practice, & till a knowlege of the controversial part of the proceedings of its framers could be turned to no ["injurious" stricken out] improper account. Delicacy also seemed to require some respect to the rule by which the Convention "prohibited a promulgation without leave of what was spoken ["in it, without whilst the" stricken out] in it;" so long as the policy of that rule could be regarded as in any degree unexpired. As a guide in expounding and applying the provisions of the Constitution, the debates ["& decisions" stricken out] and incidental decisions of the Convention can have no authoritative character. However desirable it be that they should be preserved ["for" stricken out] as a gratification to the laudable curiosity felt by every people to trace the origin and progress of their political Institutions, & as a source parhaps of some lights on the Science of Gov^t^ the legitimate meaning of the Instrument

must be derived from the text itself; or if ["light" stricken out] a key is to be sought elsewhere, it must be not in the opinions or intentions of the Body which ["prepared" stricken out] planned & proposed the Constitution, but in the sense attached to it by the people in their respective State Conventions where it rec[d] all the authority which it possesses.

Such being the course of my reflections I have suffered a concurrence & continuance of particular inconveniences for the time past, to prevent me from ["executing the task of" stricken out] giving to my notes ["& papers" stricken out] the fair & full preparation due to the subject of them. Of late, being aware of the growing hazards of postponement, I have taken the incipient steps for executing the ["tedious" stricken out] task; and the expediency of not risking ["by a" stricken out] an ultimate failure ["of my purpose" stricken out] is suggested by the Albany publication from the notes of a N. York member of the Convention. I have not seen more of the volume than has been extracted into the newspapers, but it may be inferred from these samples, that it not only a very ["deficient" stricken out] mutilated but a very erroneous edition of the matter to which it relates. There must be an entire omission also of the proceedings of the latter period of the Session from which M[r] Yates & M[r] Lansing withdrew in the temper manifested by their report to their Constituents: the period during which the variant & variable opinions, converged & centered in the modifications seen in the final act of the Body.

It is my purpose now to devote a portion of my time to an exact digest of the voluminous materials in my hands. How long a time it will require, ["with such the" stricken out] ["the probable" stricken out] under the which are probable interruptions & avocations I can not easily conjecture.

Not a little will be necessary for the mere labour of making fair transcripts. By the time I get the whole into a due form for preservation, I shall be better able to decide on the ["point" (question) stricken out] of publication * * *

[Jefferson Papers, series 2, vol. LXXXI, No. 62. Enclosure in Thweatt to Jefferson, December 26, 1821; J., No. 63.]

Spencer Roane to [Archibald Thweatt]

Richmond Decr 24th '21

I have just a moment to acknowledge the receipt of your favour of 22^d.—The subject of amending the Constitution, in relation to the decisions of the federal Courts, has been taken up in the senate as you will see, on the M^o of Mr Johnson of Kentucky, supported by Barbour. With a view to aid them, or rather to lead, on this important subject, I have prepared ["5 or 6" (some) stricken out] amendments to the Constitution to be adopted by our Assembly. They are very mild, but go the full length of the wishes of the republicans on this subject. They will be copied by another hand & circulated among the members. I would not wish to injure the great cause, by being known as the author. My name [",I believe," stricken out] would damn them, as I believe, nay hope, with the Tories.—Could you not jog your Chesterfield Delegates on the subject, as also Spooner and other good republicans?—Jefferson & Madison hang back too much, in this great crisis.— * * *

[Madison Papers, vol. VIII, p. 118. Draft.]

J. M.[adison] to J. G. Jackson

Montp^r Decr 27–1821.

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With respect to that portion of the mass, which contains the voluminous proceedings of the Convention, it has always

been my intention that they ["it" stricken out] should ["not only be put into a due state for preservation, but that it should not" stricken out] attending such a use of them; especially at an early season. In general I have leaned to the expediency of letting the publication be a posthumous . The result of my latest reflections on the subject, I cannot more conveniently explain, than by the inclosed extract from a letter* confidentially written since ["the appearance of" stricken out] the appearance of the ["Journal" stricken out] of the Convention as ["taken" stricken out] the Notes of Ch[f] Just[e] Yates. ["a publication which I have not yet seen a copy" stricken out]

Of this work I have not yet seen a copy. From the scraps thrown into the Newspapers I cannot doubt that the prejudices of the author guided his pen, and that he has committed egregious errors at least, in relation to others as well as to myself.

That most of us carried into the Convention a profound impression ["deep impressions" stricken out] produced by the ["experienced disastrous" stricken out] of the old Confederation, and by the monitory examples of all similar ones ancient & modern, ["that it was necessary to bind the" stricken out] States together by a strong Constitution, as to the necessity of binding the is certain, ["and" stricken out]. The necessity of such a Constitution was enforced ["also," stricken out] by the gross and disreputable inequalities ["into" stricken out] which had been prominent ["appeared" stricken out] in the internal administrations of most of the States. ["and particularly by" stricken out] Nor was The recent & alarming insurrection headed by Shays, in Massachussetts without a ["which had taken place in Massachussetts." stricken out] ["was not without" stricken out] a very sensible effect on the pub: mind. Such indeed was the aspect ["state" stricken out] of things, that in the eyes of all the best friends of ["sound Republi-

*See letter of the one of Sept[r] 1821. to Th: Ritchie

liberty a crisis
cans a crisis" stricken out] had arrived which was to decide whether the Am[n] ["Revolution was to be a monument" Experiment was to be a blessing to the world, or to blast for stricken out] ever the hopes which the republican cause had is not to be overlooked ["had its influence on the" stricken out] the enspired; and what ["confirmed the" stricken out] ["federal" stricken out] disposition to give ["all" stricken out] a new System all the ["the" stricken out] vigour consistent with ["a" stricken out] Republican principles, ["theory" stricken out] was ["was the" stricken out] not a little stimulated by a backwardness ["of" stricken out] in some quarters towards a Convention for the purpose, which was ascribed to a secret dislike to popular Gov[t] and a hope that delay would bring it more into disgrace, and pave the way for ["the introduction of a" stricken out] ["the" stricken out] a form of Gov[t] more congenial with ["their" stricken out] Monarchical or aristocratical predilections.

This view of the crisis made it natural for many in the Convention to lean more than was perhaps in strictness ["warrantable" stricken out] ["necessary warranted on" stricken out] warranted by a proper distinction between causes temporary as some of them doubtless were, and causes permanently popular frames of Gov[t] inherent in It is also, as has been true sometimes ["remarked" stricken out] suggested that in the course of discussions in the Convention, where so much depended on compromise, the patrons of different opinions often set out on negociating grounds more remote from each other, than, ["their" stricken out] the real opinions of either were from ["some" stricken out] the point at which they finally met.

For myself, ["I felt deeply" stricken out] having from the first moment ["of forming a judgment" stricken out] of maturing a political opinion, down to the present one, never ceased to be ["devoted" stricken out] a votary of the principle of self-Gov[t] I was among those most anxious to rescue it from the danger which seemed to threaten it; and with that view was willing to give

to a Gov^t resting on that foundation, as much energy [as would ensure the requisite stability and efficacy. "& stability as would be necessary for the object its security & efficacy" stricken out]. It is possible that in some instances this consideration may have [been allowed a weight greater "carried me further" stricken out] than subsequent reflection within the Convention, or [the actual operation "actual exper" stricken out] of the Gov^t would sanction. It [may be remarked also that it sometimes happened "is possible also that in the instances falling under this observation" stricken out], opinions as to that particular [a modification or a "structure or" stricken out] particular power [^ "s" stricken out] of the Gov^t [^ "might have" stricken out] had a conditional reference to others which combined therewith would vary the character of the whole.

But whatever might have been the opinions entertained in forming the Constitution, it was the duty of all to support it in its true meaning as understood by the Nation at the time of its ratification. No one felt this obligation more than I have done; and there are few perhaps whose ultimate & deliberate opinions o["n" written upon "f"] the merits of the Constitution, accord in a greater degree with that obligation.

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James Madison to M^r [George] Hay

[Madison Papers, vol. IX, p. 28. Draft.]

Montpellier Aug 23. 1823

I have rec^d your letter of the 11th with the Newspapers containing your remarks on the present mode of electing a President, and your proposed remedy for its defects. I am glad to find you have not abandoned your attention to great Constitutional topics.

The difficulty of finding an unexceptionable process for

appointing the Executive Organ of a Government such as that of the U. S., was deeply felt by the Convention; and as the final arrangement of it took place in the latter stage of the Session, it was not exempt from a degree of the hurrying influence produced by fatigue and impatience in all such Bodies: tho' the degree was much less than usually prevails in them.

The part of the arrangement which casts the eventual appointment on the House of Rep^s voting by States, was, as you presume, an accomodation to the anxiety of the smaller States for their sovereign equality, and to the jealousy of the larger towards the cumulative functions of the Senate. The Agency of the H. of Rep^s was thought safer also than that of the Senate, on account of the greater number of its members. It might indeed happen that the event would turn on one or two States having one or two Rep^s only; but even in that case, the Representations of most of the States being numerous, the House would present greater obstacles to corruption than the Senate with its paucity of Members. It may be observed also, that altho' for a certain period the evil of State votes given by one or two individuals, would be extended by the introduction of new States, it would be rapidly diminished by growing populations within extensive territories. At the present period, the evil is at its maximum. Another Census will leave none of ["the existing States or territories" stricken out] the States existing or in Embryo, in the numerical rank of R. I. & Del: nor is it impossible, that the progressive assimilation of local Institutions laws & manners, may overcome the prejudices of those particular States ["ag^st" stricken out] against an incorporation with their neighbours.

But with all possible abatements, the present rule of voting for President by the H. of Rep^s is so great a departure from the ["principles of" stricken out] Republican principle of numerical equality, and even from the federal rule which qualifies the numerical by a State equality, and is so pregnant also with a mischievous tendency in practice, that an amendment of the Constitution on this point is justly called for by all its considerate & best friends.

I agree entirely with you in thinking that the election of Presidential Electors by districts, is an amendment very proper to be brought forward at the same time with that relating to the eventual choice of President by the H. of Rep^s The district mode was mostly, if not exclusively, in view when the Constitution was framed and adopted; & was exchanged for the general ticket & the legislative election, as the only expedient for baffling the policy of the particular States which had set the example. A constitutional establishment of that mode will doubtless aid in reconciling the smaller States to the other change which they will regard as a concession on their part. And it may not be without a value in another important respect. The States when voting for President by general tickets or by their Legislatures, are a string of beeds: when they make their elections by districts, some of these differing in sentiment from others, and sympathizing with that of districts in other States, they are so knit together as to break the force of those geographical and other noxious parties which might render the repulsive too strong for the cohesive tendencies within the political System.

It may be worthy of consideration whether in requiring elections by districts, a discretion might not be conveniently

left with the States to allot two members to a single district. It would manifestly be an important proviso, that no new arrangement of districts should be made within a certain period previous to an ensuing election of President.

Of the different remedies you propose for the failure of a majority of Electoral votes for any one Candidate, I like best that which refers the final choice, to a joint vote of the two Houses of Congress, restricted to the two highest names on the Electoral lists. It might be a question, whether the three, instead of the two highest names might not be put within the choice of Congress; inasmuch as it not unfrequently happens, that the Candidate third on the list of votes would in a question with either of the two first outvote him, and consequently be the real preference of the voters. But this advantage of opening a wider door & a better chance, to merit, may be outweighed by an increased difficulty in obtaining a prompt & quiet decision by Congress with three candidates before them, supported by three parties, no one of them making a majority of the whole.

The mode which you seem to approve, of making a plurality of Electoral votes a definitive appointment would have the merit of avoiding the Legislative agency in appointing the Executive; but might it not, by multiplying hopes and chances, stimulate intrigue & exertion, as well as incur too great a risk of success to a very inferior candidate? Next to the propriety of having a President the real choice of a majority of his Constituents, it is desireable that he should inspire respect & acquiescence by qualifications not suffering too much by comparison.

I cannot but think also that there is a strong objection to ["an" stricken out] undistinguishing votes for President

& Vice President; the highest number appointing the former the next the latter. To say nothing of the different services (except in a rare contingency) which are to be performed by them, occasional transpositions would take place, ["according neither with" stricken out] violating equally the mutual consciousness of the individuals, & the public estimate of their comparative fitnesses.

Having thus made the remarks to which your communication led, with a frankness which I am sure you will not disapprove, whatever errors you may find in them, I will sketch for your consideration a substitute which has occurred to myself for the faulty part of the constitution in question

"The Electors to be chosen in districts not more than two in any one district, and the arrangement of the districts not to be alterable within the period of previous to the election of President. Each Elector to give two votes, one naming his first choice; the other his next choice. If there be a majority of all the votes on the first list for the same person, he of course to be ["the" stricken out] President; if not, and there be a majority, (which may well happen) on the other list for the same person, he then to be the final choice: if there be no such majority on either list, then a choice to be made by joint ballot of the two Houses of Congress, from the two names having the greatest number of votes on the two lists taken together"—Such a process would avoid the inconveniency of a second resort to the Electors; and furnish a double chance of avoiding an eventual resort to Congress. The same process might be observed in electing the Vice President

Your letter found me under some engagements which have retarded a compliance with its request, and may have also rendered my view of the subject presented in it more superficial than I have been aware. This consideration

alone would justify my wish not to be brought into the public discussion. But there is another in the propensity of the moment, to view every thing, however abstract from the Presidential election in prospect, thro' a medium connecting it with that question: a propensity the less to be excused as no previous change of the Constitution can be contemplated, and the more to be regretted, as opinions and commitments ["may be" stricken out] formed under its influence, may become settled obstacles ["to a change" stricken out] at a practicable season.

[Madison Papers, vol. IX, p. 46. Draft.]

J. M.[adison] to Geo. M^c^Duffie

Montp^r^ Jany 3 1824

I have rec^d^ your letter of De^r^ 26. inclosing a ["printed" stricken out] copy of "A joint Resolution," ["which proposing an amendment of" stricken out] the Constitution for amending in the case of chusing a President & V. Presid^t^, accompanied by an able "Report" ["on that" stricken out] thereon, and on the expediency ["of establishing uniformity & permanency in" stricken out] of introducing a fixed uniformity in the modes of chusing members of the House of Representatives and Electors of President & V. President.

You ask my opinion["s" stricken out] and my suggestions on these points ["subjects" stricken out]. I sh^d^ give them with more cheerfulness, if I were less aware how much you appear disposed to overvalue them.

I agree entirely with the [""Report"" stricken out] Committee, in thinking an Election of Representatives & of Electors by Districts preferable to that by ["a" stricken out] general Tickets; and in the case of Electors, preferable to that also by the State Legislatures. I agree equally with them

["also" stricken out] in preferring an eventual choice of Presid[t] & V. Presid[t] by a joint ballot of the two Houses of Cong[s] to the existing provision for such a choice by the House of Representatives voting by States. The Committee appear to me to [be "have judged" stricken out] very right[also in linking "ly in making" stricken out] the amendments together, as a compromise between the States who may mutually regard them as ["mutual" stricken out] concessions.

["The "Joint Resolution"" stricken out] In the amendment relating to District Elections of Representatives, it is provided that the Districts ["when formed" stricken out] shall not be alterable previous to another Census. And the "Joint Resolution" extends the prohibition to the Electoral Districts. As the return of a Census may not be within less than ten years, the regulation may become very inconvenient & dissatisfactory especially in the new States, within different parts of which the population will increase at such unequal rates. It would be a better provision, that no change of Districts should take place within a period of preceding elections next in view; and to apply the rule to cases when Cong[s] may have a right to interpose as well as in the ordinary exercise of the power by the States.

The power given by the Joint Resolution to the Electors of P. & V. P. to fill up their own vacancies and to appoint the two additional Electors is liable to the remark that where there may be but a single Elector, ["his death or inability" stricken out] casualties to him might deprive his State of its two additional Electors; and that ["in the choice of P. & V. P." stricken out] a single Elector with a right to appoint 2 others, would have in effect 3

votes, a ["a right" stricken out; a situation] exposing him in a particular manner to ["the electioneering efforts," stricken out; temptations] of which the Constitution is ["so" stricken out] jealous. The objection to such ["a" stricken out; an augmented] power applies generally with a force proportioned to the fewness of Electors allotted to a State. There may be some difficulty in finding a satisfactory cure for the inconveniency. In States entitled to but one Representative, ["it might as" stricken out], the single district might chuse the 3 Electors ["when chusing Representative" stricken out; "as it would its" stricken out]. In States having 2 Repˢ, each of its two districts, by chusing 2. Electors would furnish its quota of four. In all other States the difficulty would occur. And as uniformity ["in the case" stricken out] is so justly an object, it would seem be["st" written upon "tter"] to let the State Legislatures appoint or provide for the appointment of the 2 additional Electors, & for filling vacancies ["where practicable" stricken out] Electoral; limiting the time within which the appointment must be made.

Would it not be better to retain the word "immediately" in requiring the 2 Houses to proceed to the choice of P. & V. P. than to change it into ["the expression" stricken out] "without separating". If the change could quicken & ensure a final ballot, it would certainly be a good one. But as it ["it may have the effect of" stricken out] might give rise to ["a question whether" stricken out; disputes as to the validity of] an election, after an an adjournment & separation, forced by ["protracted ballotings was to be valid or not" stricken out; ["& abortive" stricken out] a repetition of abortive ballotings], the existing term might perhaps as well remain, & take its chance of answering the purpose. The distinction between a regulation which is directory only & one a departure from which would have a viciating effect, is not always obvious, and in the delicate affair of Electing a Chief

Magistrate, it ["is better to narrow than widen room for its" stricken out] will be best ["not to widen the" stricken out] to hazard as little as possible a discussion of it.

In the appeal to the 2d meeting of Electors, their ["option" stricken out] choice is limited to the two names having the highest number of votes given at the first meeting. As there may be an equality of votes among several highest on the list, the option ["to the" stricken out] ought to be enlarged accordingly, as well with a view to obviate ["difficulty as to do" stricken out] uncertainty as to deal equally with equal pretensions.

The expedient of resorting to a second meeting of the Presidential Electors, in order to diminish["ing" stricken out] the risk of a final resort to Congress, has certainly much to recommend it. But the evil to be ["cured by it" stricken out] guarded agst would lose not a little of its formidable aspect, by the substitution of a joint ballot of the members of Congress, for a vote by States in the Representative branch; ["only: and it must be admitted, that the delay," stricken out] & the trouble to say nothing of the expence, are not unworthy of attention. But what weighs in the adverse scale is" stricken out] Whilst the prolonged period during which the Electors must be in appointment ["and known to the Public" stricken out], before their final votes would be given, ["a period which has been studiously made as short as possible." stricken out] relinquishes the contemplated advantage of ["Electoral bodies whose" stricken out] functions to be so quickly commenced & closed as to preclude extraneous management and intrigue. [influence. The" stricken out] The increased trouble & expence ["tho'" stricken out] are of minor ["importance, tho" stricken out] consideration, though not to be entirely disregarded. It may be a more important remark that in cases where from an equality of votes ["o" written upon "i"]n the ["first"

stricken out] Electoral list, more than two names might be sent back to the Electors, very serious embarrasments difficulties & delays might happen ["in some" stricken out] from miscalculations or perverse dispositions in some ["would be incident" stricken out] of so many distinct meetings; and that after all ["there" stricken out] no perfect security would ["be provided" stricken out] exist ag^st an ultimate devolution of the choice on Congress. Still it may be a fair question whether a second meeting of Electors with its prospect of preventing an election by the ["Legislature" stricken out] members of the Legislature, would not be preferable to ["a reliance on" stricken out] the greater probability of a single meeting with ["a more probable" stricken out] resort to them.

As your request extends to suggestions as well opinions, I shall more fully comply with it by sketching for consideration a process which omits a second meeting of Electors, and aims at an improved chance of a decisive vote in the first

"Each Elector to give two votes, one naming his first choice, the other his next choice. If there be a majority for the first name, the choice is made: If there be not a majority for the first, and one for the next name, the next to be President: If there be not a majority for either, then a final choice to be made by joint ballot of the H. of Rep^s & Senate out of the two or more names having the two highest number of votes on the two ["Electoral" stricken out] lists taken together: A V. President to be chosen ["substantially in the same" stricken out] in a similar manner"

If there be no objections to such a process, not yet occuring to me, it may be entitled to a comparative examination by its avoiding the inconveniences of a second meeting of Electors, and its doubling the chance of a decisive ballot ["at the" stricken out] at a single one. In contested elections especially where there may be a

number of candidates, the name second in preference might well unite a majority of votes, those ["votes" stricken out] for the first being so scattered as to fail of it.

Should a provision for a second meeting of Electors be deemed indispensable, and any value be attached to the suggested mode of voting at the first, there is no incompatibility between the two arrangements. ["in the two processes" stricken out].

It may be proper for me to observe that in a late answer to a letter from a gentleman of distinguished ability who had turned his thoughts to an improvement of the ["Constitutional" stricken out] Elective provisions for P. & V. P. I was led to a sketch similar to the above, with an intimation, that it would be agreeable to me not to be brought into ["the" stricken out] any public discussion of the subject.

Your letter reached me on Monday evening ["last" stricken out]; but I was for several days under an indisposition which prevented a due attention to it ["s communications, nor am I" stricken out] nor am I sure that with the present remains of it, I have even done justice to my own ideas. I am very sure that I have been far from doing it to the subject itself.

James Madison to M[r] Jefferson

[Madison Papers vol. IX. p. 47.]

Montp[r] Jan[y] 14. 1824

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You have probably noticed that the manner in which the Constitution as it stands may operate in the approaching election of President, is multiplying projects for amending it. If elctoral Districts, and an eventual decision by joint ballot of the two Houses of Congress could be established, it would I think be a real improvement; and as the smaller

States would approve the one, and the larger the other, a spirit of compromise might adopt both.

An appeal from an abortive ballot in the first meeting of the Electors, to a reassemblage of them, a part of several of the plans, has something plausible; and in comparison with the existing arrangement, might not be inadmissible. But it is not free from material objections. It relinquishes, particularly, the policy of the Constitution in allowing as little time as possible for the Electors to be known & tampered with. And beside the opportunities for intrigue furnished by the interval between the first and second meeting, the danger of having one electoral Body played off against another, by artful misrepresentations rapidly transmitted, a danger not to be avoided, would be at least doubled. It is a fact within my own knowledge, that the equality of votes, which threatened such mischief in 1801. was the result of false assurances despatched at the critical moment, to the Electors of one State, that the votes of another would be different from what they proved to be.

Having received letters from certain quarters on the subject of the proposed amendments, which I could not decline answering, I have suggested for consideration, "that each Elector should give two votes, one naming his first choice, the other naming his next choice. If there be a majority for the first, he to be elected; if not, and a majority for the next, he to be elected: If there be not a majority for either, then the names having the two highest number of votes on the two lists taken together, to be referred to a joint ballot of the Legislature". It is not probable that this modification will be relished by either of those to whom it has been suggested; both of them having in hand projects of

their own. Nor am I sure that there may not be objections to it which have been overlooked. It was recommended to my reflections, by its avoiding the inconvenices of a second meeting of Electors, and at the same time doubling the chance of avoiding a final resort to Congress. I have intimated to my correspondents my disinclination to be brought in any way into the public discussion of the subject; the rather as every thing having a future relation only to a Presidential Election, may be misconstrued into some bearing on that now depending.

[Thomas Jefferson] to Robert S. Garnett esq.

[Jefferson Papers, series 1, vol. XIV, No. 285. Draft.]

Monticello Feb. 14. 24.

I have to thank you for the copy of Col° Taylor's New views of the Constitution, and shall read them with the satisfaction and edification which I have ever derived from whatever he has written. but I fear it is the voice of one crying in the wilderness. those who formerly usurped the name of federalists, which in fact they never were, have now openly abandoned it, and are as openly marching, by the road of Construction, in a direct line to that Consolidation which was always their real object. they, almost to a man, are in possession of one branch of the government, and appear to be very strong in your's. the three great questions of Amendment, now before you, will give the measure of their strength. I mean 1. the limitation of the term of Presidential service. 2. the placing the choice of President effectually in the hands of the people. 3. the giving to Congress the power of internal improvement, on condition that each state's federal proportion of the monies so expended, shall be employed within the state. the friends of Consolidation

would rather take these powers by construction than accept them by direct investiture from the states. Yet, as to internal improvement particularly, there is probably not a state in the Union which would not grant the power, on the condition proposed, or which would grant it without that.

The best general key for the solution of questions of power between our governments is the fact that 'every foreign and federal power is given to the federal government, and, to the states, every power purely domestic'. I recollect but one instance of controul vested in the federal, over the state authorities, in a matter purely domestic; which is that of metallic tenders. the Federal is, in truth, our foreign government, which department alone is taken from the sovereignty of the separate states.

The real friends of the Constitution in it's federal form, if they wish it to be immortal, should be attentive, by amendments, to make it keep pace, with the advance of the age, in science and experience. instead of this, the European governments have resisted reformation until the people, seeing no other resource, undertake it themselves, by force, their only weapon, and work it out thro' blood, desolation and long continued anarchy. here it will be by large fragments breaking off, and refusing reunion, but on condition of amendment, or perhaps permanently. if I can see these three great amendments prevail I shall consider it as a renewed extension of the term of our lease, shall live in more confidence, and die in more hope. and I do trust that the republican mass, which Colº Taylor justly says is the real federal one, is still strong enough to carry these truly federo-republican amendments. with my prayers for that issue, accept my friendly & respectful salutations.

J. M.[adison] to Edward Livingston

[Madison Papers, vol. IX, p. 62. Copy.]

Montpellier April 17. 1824.

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I have read your observations with a due perception of the ability which pervades and the eloquence which adorns them; and I must add, not without the pleasure of noticing that you have pruned from the doctrine of some of your fellow labourers, its most luxuriant branches—I cannot but think at the same time, that you have left the root in too much vigour. This appears particularly in the question of Canals. My impression with respect to the authority to make them may be the stronger perhaps, (as I had occasion to remark as to the Bank on its original discussion,) from my recollection that the authority had been repeatedly proposed in the Convention, and negatived, either as improper to be vested in Congress, or as a power not likely to be yielded by the States. My impression is also very decided, that if the construction which brings Canals within the scope of commercial regulations, had been advanced or admitted by the advocates of the constitution in the State Conventions, it would have been impossible to overcome the opposition to it. It is remarkable that M[r] Hamilton himself, the strenuous patron of an expansive meaning in the text of the Constitution, with the views of the Convention fresh in his memory, and in a Report contending for the most liberal rules of interpretation, was obliged by his candour to admit that they could not embrace the case of canals.

In forbearing to exercise doubtful powers, especially where not immediately and manifestly necessary, I entirely agree with you. I view our political system also, as you do, as a

combination and modification of powers without a model; as emphatically sui generis, of which one remarkable feature is, its annihilation of a power inherent in some branch of all other governments, that of taxing exports. I wish moreover that you ["may" stricken out] might be followed in the example of defining the terms used in argument, the only effectual precaution against fruitless and endless discussion. This logical precept is peculiarly essential in debating Constitutional questions, to which for want of more appropriate words, such are often applied as lead to error and confusion. Known words express known ideas: and new ideas, such as are presented by our novel and unique political system, must be expressed either by new words, or by old words with new definitions. Without attention to this circumstance, volumes may be written which can only be answered by a call for definitions; and which answer themselves as soon as the call is complied with.

It cannot be denied without forgetting what belongs to human nature, that in consulting the cotemporary writings, which vindicated and recommended the Constitution, it is fair to keep in mind that the authors might be sometimes influenced by the zeal of advocates: But in expounding it now,—is the danger of bias less, from the influence of local interests, of popular currents, and even from an estimate of national utility.

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[Jefferson Papers, series 1, vol. XIV, No. 336a. Draft.]

[Thomas Jefferson to William F. Gordon]

Mont° Jan. 1. 26.

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it is but too evident that the branches of our foreign department of govmt, Exve, judiciary and legislative are in com-

bination to usurp the powers of the domestic branch reserved to the states also and consolidate themselves into a single govmt without limitn of powers. I will not trouble you with details of the instances which are threadbare and unheeded. the only question is What is to be done? shall we give up the ship? No, by heavens ["no" stricken out] the! while a hand remains able to keep ["upon the" stricken out] deck, shall we with the hot-headed Georgian, stand at once to our arms? not yet, nor until the evil, the only greater one than separn, shall be all but upon ["fallen on" stricken out] us, that of living under a government of discretion. ["an unlimited govmt" stricken out]. between these alternatives there can be no hesitation. but again, what are we to do? I am glad I did not answer earlier, for a fortnight ago might have called for a different answer. since that the S. C. resolutions are become known Van Buren's motion and Baylie's proposn to yield the power of roads and canals, provided it be regularly by an amdmt of the constn, and guarded against abusive practices under it. we had better ["rest" stricken out] at present rest a while on our oars ["for a while" stricken out] which way the tide will set and see ["what course this proposn will take" stricken out] in Congress and in the State legislatures. perhaps it will be better for Virginia to follow than take the lead in whatever is to be done. ["the people" stricken out] a majority of the people are against us on this question. the Western states have especially been bribed by local considns to ["leave" stricken out] abandon their antient brethren and enlist ["themselves" stricken out] under banners alien to them in principles & interest. if in this state of things we can make such a compromise as Baylie proposes, we shall save ["the constn" stricken out] and at the same time ["amend" stricken out] improve our constn, for I think that with suffic[t] guards it will be a wholsome amdmt. and

not doubting but that it comes from the President himself we may hope it's success under such auspices. if I had an opn therefore it would be for lying still a while. but I have ["no opinion" stricken out] none. * * *

[Madison Papers, vol. LXVII, p. 53.]

Robert Taylor to President James Madison Montpelier Orange Virginia

Washington Jany 26th 1826

[Enclosure—Senate Resolution proposing an amendment to the Constitution as it respects the election of President and Vice-President, reported by Thomas H. Benton, January 19, 1826. Madison Papers, Prints, vol. I, p. 18. For the Report, id. p. 17.]

I take the liberty to inclose you a resolution from the Senate for amending the Constitution of the United States, tho' think it probable you have seen it in the papers—If there is no impropriety in asking it, should be glad of your opinion on it, which if desired should be confidential—I would much prefer the intervention of Electors, but a direct vote by the people has many friends—I think too, if the large States consent to the district system—the small ought to yield their federal power if the election should come into the house of Representatives— * * *

[Madison Papers, vol IX, p. 129. Draft.]

James Madison to Mr [Andrew] Stephenson

Montpellier Mar. 25. 26

I have recd the copy of your late speech kindly forwarded by you ["to me" stricken out]. I cannot say that I concur in all your views of the subject it discusses. But I take pleasure in doing justice to the ability with which those are maintained in which I ["least" stricken out] do not concur.

Will you pardon me for pointing out an error of fact into which you have fallen, as others have done, by supposing that the term, national applied to the contemplated Gover-

ment, in the early stage of the Convention, particularly in the propositions of M[r] Randolph, was equivalent to unlimited or consolidated. This was not the case. The term was used, not in contradistinction to a limited, but to a federal Govern- within the extent of its authority on the con- ment. As the latter operated ^ thro' requisitions ["on inde- federated pendent" stricken out] States, and rested on the sanction of State Legislatures, the Government to take its place, was to within the extent of its powers operate ^ directly & coercively on individuals, and to ["be rat- receive the higher sanction ified by the higher authority" stricken out] ^ of the people of the States. And there being no technical or appropriate denomination applicable to the new and unique System, the term national was used, with a confidence that it would not be taken in a wrong sense, especially as a right one could be readily suggested if not sufficiently implied by some of the propositions themselves. Certain it is that not more than two or three members of the Body ^ and they rather theoretically than practically, were in favor of an unlimited Gov[t] founded on a consolidation of the States; and that neither M[r] Randolph, nor any one of his colleagues was of the number. His propositions were the result of a meeting of the whole Deputation, and concurred or acquiesced in unanimously, merely as a general introduction of the business; such as might be expected from the part Virginia had [mutilated] in bringing about the Convention, and as might be detailed, and defined in the progress of the work. The Journal shews that this was done.

I am not sure that I understand your allusions to the origin of the Convention of 1787. If I do, you have overlooked ["the" stricken out] steps antecedent to the interposition of the old Congress. That Convention grew out of the Convention at Annapolis in August ^ 1786. recommended by Virginia

in the preceding winter. It had ["certain specified objects only relating to trade" stricken out] for its objects certain provisions only relating to commerce & revenue. The deputies who met, inferring from an interchange of information as to the state of the public mind, that it had made a great ["progress" stricken out] advance, subsequent even to the act of Virginia, towards maturity for a thorough reform of the federal system, took the decisive step, of recommending a convention with adequate powers for the purpose. The Legislature ["was" stricken out] of Virginia being the first that assembled, set the example of compliance, and endeavoured to strengthen it by putting General Washington at the head of her Deputation

I cannot but highly approve the industry with which you have searched for ["the" stricken out] a key to the sense of the Constitution, where alone the true one can be found; in the proceedings of the Convention, the cotemporary expositions, and above all in the ratifying Conventions of the States. ["As long" stricken out. "If" written upon "as"] the instrument ["continues is to be interpreted by verbal criticisms, under the fascinating influence of public Utility" stricken out] be interpreted by criticisms which lose sight of the intention of the parties to it, in the pursuit of fascinating objects of public advantage or conveniency, the purest motives ["can" written upon "will"] be no security against innovations materially changing the features of the Government.

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[Madison Papers, vol. IX, p. 139. Draft.]

J. M[adison] M. Van Buren

Montpellier Sep[r] 20. 1826

Your letter of Aug. 30. has been longer unanswered than I could have wished; but the delay has been unavoidable. And I am sensible now that the subject invited more of

development, than successive occurrences calling off my attention, have permitted. The brief view taken of it, will at least be a proof my disposition to comply with your request, which I regard as a private one, as you will be pleased to regard the answer to it.

I should certainly feel both gratification and obligation in giving any aid in my power towards making the Constitution more appropriate to its objects, & more satisfactory to the nation. But I feel also the arduousness of such a task, arising as well from the difficulty of partitioning and defining Legislative powers, as from the existing diversity of opinions concerning the proper arrangement of the power in question over internal improvements.

Give the power to the General Government as possessing the means most adequate, and the objections are. 1. the danger of abuses in the application of the means to objects so distant from the eye of a Government, itself so distant from the eye of the people. 2. the danger from an increase of the patronage and pecuniary transactions of the General Government, that the equilibrium between that and the State Governments may not be preserved.

Leave the power exclusively with the States ["Governments" stricken out], and the objections are. 1. that being deprived by the Constitution, and even by their local relations (as was generally experienced before the present Constitution was established) of the most convenient source of revenue, the impost on commerce; improvements might not be made even in cases wholly within their own limits. 2. that in cases where roads & canals ought to pass through contiguous States, the necessary co-operation might fail from a ["the" stricken out] difficulty in adjusting conditions and

details, from a want of interest in one of them, or possibly from some jealousy or rivalship in one towards the other. 3. that where roads and canals ought to pass thro' a number of States, particular views of a single State might prevent improvements deeply interesting to the whole nation.

This embarrassing alternative has suggested the expedient which you seem to have contemplated, of dividing the power between the General & State Governm^{ts} by allotting the appropriating branch to the former, & reserving the jurisdiction to the latter. The expedient has doubtless a captivating aspect. But to say nothing of the difficulty of defining such a division, and maintaining it in practice, will the nation be at the expence of constructing roads & canals, without such a jurisdiction over them as will ensure their constant subserviency to national purposes? will not the utility and popularity of these improvements lead to a constructive assumption of the jurisdiction by Congress, with the same sanction of their constitutents, as we see given to the exercise of the appropriating power, already stretching itself beyond the appropriating limit.

It seems indeed to be understood, that the policy & advantage of roads & canals have taken such extensive & permanent hold of the public will, that the constructive authority of Congress to make them, will not be relinquished, either by that, or the Constituent Body. It becomes a serious question therefore, whether the better course be not^{not}, to obviate the unconstitutional precedent, by an amendatory article expressly granting the power. Should it be found, as is very possible, that no effective system can be agreed on by Congress, the amendment will be a recorded precedent against constructive enlargements of power: and in the contrary

event, the exercise of the power will no longer be a precedent in favour of them.

In all these cases, it need not be remarked I am sure, that it is necessary to keep in mind, the distinction between a usurpation of power by Congress against the will, and an assumption of power with the approbation, of their Constituents. When the former occurs, as in the enactment of the Alien & Sedition laws, the appeal to their Constituents sets every thing to rights. In the latter case, the appeal can only be made to argument and conciliation, with an acquiescence, when not an extreme case, in an unsuccessful result.

If the sole object be to obtain the aid of the federal treasury for internal improvements by roads & canals, without interfering with the jurisdiction of the States, an amendment need only say "Congress may make appropriations of money for roads and canals, to be applied to such purposes by the Legislatures of the States within their respective limits, the jurisdiction of the States remaining unimpaired"

If it be thought best to make a constitutional grant of the entire power, either as proper in itself, or made so by the moral certainty, that it will be constructively assumed, with the sanction of the national will, and operate as an injurious precedent, the amendment can not say less, than that "Congress may make roads & canals, with such jurisdiction as the cases may require."

But whilst the terms "Common defence & general welfare", remain in the Constitution unguarded agst the construction which has been contended for, a fund of power inexhaustible, & wholly subversive of the equilibrium between the General and the State Gov^{ts} is within the reach

of the former. Why then, not precede all other amendments by one, expunging the phrase which is not required for any harmless meaning; or making it harmless by annexing to it the terms "in the cases required by this Constitution."

With this sketch of ideas which I am aware may not coincide altogether with yours, I tender renewed assurances of my esteem & friendly wishes

[Madison Papers, vol. IX, p. 149. Copy.]

J——s Madison to Th^s^ Cooper President of S. C. College.

Montpellier Decr 26. 1826—

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The mail has furnished me with a copy of your Lectures on Civil Government, & on the constitution of the U. S. I find in them much in which I concur; parts on which I might say—non liquet—& others from which I should dissent; but none, of which interesting veiws are not presented. What alone I mean to notice is a passage in which you have been misled by the authorities before you, & by a misunderstanding of the term "National" used in the early proceedings of the Convention of 1787. Both Mr Yates & Mr Martin brought to the Convention predispoitions (si) ag^t^ its object, the ["only" (one) stricken out] from Maryland (^) representing the party of Mr Chase opposed to federal restraints on the State Legislation; the other from New York, the party unwilling to lo["s" written upon "os" (lose)]e the power over trade through which the State levied a tribute on the consumption of its neighbours. Both of them left the Convention long before it compleated its work; & appear to have reported in angry terms, what they had observed with jaundiced eyes. M^r^

Martin is said to have recanted at a later day; & Mr Yates to have changed his politics & joined the party adverse to that which sent him to the Convention. —— With respect to the term "National" as contradistinguished from the term "federal," it was not meant to express the extent of power, but the mode of its operation, which was to be not like the power of the old Confederation operating on States; but like that of ordinary Governments operating on individuals; & the substitution of "United States" for "National" noted in the journal, was not designed to change the meaning of the latter, but to guard agt a mistake or misrepresentation of what was intended. The term "National" was used in the original propositions offered on the part of ^the Virga Deputies, not one of whom attached to it any other meaning than that here explained. Mr Randolph himself the organ of the Deputation, on the occasion, was ^a strenuous advocate for the federal quality of limited & specified powers; & finally refused to sign the constitution because its powers were not sufficiently limited & defined.

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J. M[adison] to Sam. H. Smith [Madison Papers, vol. X, p. 4. Draft.]

Montpr Febry 2. 1827

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I have great respect for your suggestion with respect to the season for making public what I have preserved of the proceedings of the Revolutionary Congress, and of the ^General Convention of 1787. But I have not yet ceased to think, that ["a" stricken out] publications of them, posthumous ^as to others as well as myself, may be ["both" stricken out] most delicate and most useful also, if to be so at all. As no per-

sonal or party views can then be imputed, ["they will be read be read." stricken out] they will be read with less of personal or party feelings, and consequently, with ["more of" stricken out] whatever profit, ["if any" stricken out] may be promised by them. It is true also that after a certain date, the older such things grow, the ["y" stricken out] more they are ["enjoyed" stricken out] relished as new; the distance of time like that of space from which they are received, giving them that attractive character

It cannot be very long however before the living obstacles to the forthcomings in question, will be removed. Of the members of ["the old" stricken out] Congress during the period embraced, the lamps of all are extinct, with the exception of 2. R.d Peters, & myself; and of the signers of the Constitution, I believe, of all but 3. R. King, W.m Few and myself; and of the lamps still burning, none can now be far from the Socket.

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[Madison Papers, vol. X. p. 13. Draft.]

J. M.[adison] to M. Van Buren.

Montpellier Mar. 13. 1827

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If it be understood that our political System contains no provision for deciding questions between the Union & its members, but that of negociation, and this failing, but that of war, ["as between as between" stricken out] as between separate & Independent Powers, ["what has been called" stricken out] no time ought, to be lost in supplying, by some mode or other, the awful omission. What has been called, a Government is on that suposition a mere league only; a league with too many parties, to be uniformly observed, or effectively maintained.

You did well I think ["to" stricken out] in postponing the attempt to amend the phraseology of the Constitution on a

point essentially affecting its operative character. The state of the political atmosphere did not promise that discussion and decision on the pure merits of such an amendment, which ought to be desired.

James Madison to M^r [Edward] Everett. [Madison Papers. vol. X, p. 28. Copy.]

Montpellier June 3^d 1827—

I offer for your brother and yourself the thanks I owe for the copy of his work on "America". * * * One error into which the author has been led, will I am sure be gladly corrected. In page 109. it is said of Washington that he "appears to have wavered for a moment in making up his mind upon the constitution". I can testify from my personal knowledge, that no member of the Convention appeared to sign the Instrument with more cordiality than he did, nor to be more anxious for its ratification. I have indeed the most thorough conviction from the best evidence, that he never wavered in the part he took in giving it his sanction and support. The error may perhaps have a["r" stricken out]risen from his backwardness in accepting his appointment to the Convention, occasioned by peculiar considerations which may be seen in the 5th volume of his Biographer (Marshall).

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[James Madison] to Th^s I Wharton [Madison Papers, vol. X, p. 42. Draft.]

Montp^r Aug. 1827

I have duly rec^d the copy of your Oration on the 4th of July last. In making my acknowledgments, with the passage under my eye, ascribing to me "the first public pro-

posal for the meeting of the Convention to which we are indebted for our present Constitution", it may be proper to state in a few words the part I had in bringing about that event.

Having witnessed, as a member of the Revolutionary Congress, the inadequacy of the powers conferred by the "Articles of Confederation", ["to the essential purposes of the Union" stricken out], and having become, after the expiration of my term of service there, a member of the Legislature of Virginia, I felt it to be my duty to spare no efforts to impress on that Body, the alarming condition of the U. S. proceeding from that cause, and the evils threatened by delay, in applying a remedy. With this view, propositions were made vesting in Congress the necessary powers to regulate trade then suffering under the monopolizing policy abroad, and State collisions at home, and to draw from that source the convenient revenue it was capable of yielding. The propositions, tho' recd with favorable attention, and at one moment agreed to in ["an enfeebled" stricken out] a crippled form, were finally frustrated or rather abandoned. Such however were the impressions which the public discussions had made, that an alternative proposition which had been kept in reserve, being seasonably brought forward by a highly respected member, who having ["never participated in" stricken out] long served in the State Councils ["on that account" stricken out] without participating in the federal had more the ear of the ["body" stricken out] Legislature on that account, was adopted with little opposition. The proposition invited the other States to concur with Virginia in a Convention of Deputies commissioned to devise & report a uniform system of commercial regulations. Commissioners were at the same time appointed ["on the part" stricken out] on the part of the State myself

of the number. The Convention ["which ensued" stricken out] took place at Annapolis in August 1786. Being however very partially attended, and it appearing ["from the collected information" stricken out] that a rapid progress, aided by the experiment on foot, had been made in ripening the public mind for a radical reform of the Federal polity, they determined to waive the object for which they were appointed, and recommend [", as is well known the" stricken out] a Convention with enlarged powers to be held, the year following in the City of Philad[a] The Legislature of Virg[a] happened to be the first that acted on the recommendation, and being a member, the only one of the ["deputies of the State who had attended" stricken out] at Annapolis, who was so, my ["particular" stricken out] best exertions were used in promoting a compliauce with it, and in giving to the example the most conciliating form, & all the weight that could be derived from a list of deputies having the ["General" stricken out] Washington at its head.

In what is here said of the agency of Virginia and of myself particularly, it is to be understood that no comparison is intended that can derogate from what occurred elsewhere, and may, of course, be less known to me than what ["I have" stricken out] stated.

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[James Madison] to M. Van Buren

[Madison Papers, vol. X, p 113. Draft.]

May 13 1828

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You will not I am sure, take it amiss if I here point to an error of fact, in your "observations on M[r] Foot's amend-

ment." It struck me when first reading them, but escaped my atten^tion—when thanking you for the copy with which you favored me.—The threatning contest, in the Convention of 1787. did not, as you supposed, turn on the degree of power to be granted to the Federal Gov^t but on the rule by which the States should be represented and ["share" stricken out] ^vote in the Gov^t the smaller States insisting on the rule of equality in all respects; the larger on the rule of proportion to inhabitants: and the Compromize which ensued was that which established an equality in the Senate, and an inequality in the House of Representatives.

["The disposition to grant or withold power was no doubt due influenced by this conflicting" stricken out]

The contests & compromises, ["turning" stricken out] ^turning on the grants ^of power, tho' ^very important in some instances, ["were of a chequered & less" illegible "character. were" stricken out] ["trying" stricken out] were Knots of a less "Gordian" character.

[Madison Papers, vol. X, p. 120. Draft.]

[James Madison] to Jos. C. Cabell.

Montp^r Sepr 18 1828

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It is a simple question under the Constitution of the U. S. whether "the power to regulate trade with foreign nations" as a distinct & substantive ^item in the enumerated powers embraces the object of encouraging by duties, restrictions and prohibitions the manufacturers ^& products of the Country? and the affirmative must be inferred from the following considerations:

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5. Such ^a use of the power by Cong^s accords with the of the States ^ ["was the" ^ stricken out] intention and expectation in transferring the power over ^trade, from the ["States" stricken out] ^mselves to the Gov^t of the U. S. This was emphat-

ically the case in the Eastern, the more manufacturing members of the Confederacy. ["as appears from" stricken out] Hear the language held in the Convention of Mass^{ts} ["held by the advocates of the Constitution—(here insert extracts from" stricken out] p. 84. 86. 136. ["of the orig^{l} edition" stricken out]. ["when deliberating on the Constitution before it" stricken out] an advocate for the Constitution By Mr Dawes it was observed—"our manufactures are another great subject which has recd no encouragement by national duties on foreign manufactures, and they never can by any authority in the old Confed^{n}" again "If we wish to encourage our own manufactures, to preserve our own commerce, to raise the value of our own lands, we must give Cong^{s} the powers in question

By Mr Widgery, an opponent, "All we hear is, that the merch^{t} & farmer will flourish, & that the mechanic & tradesmen are to make their fortunes directly, if the Constitution goes down.

The Convention of Mass^{ts} was the only one in N. Eng^{d} whose debates have been preserved. But it can not be doubted that the sentiment there expressed was common to the other States in that quarter, more especially to ["there was entertained by such States as" stricken out] Connecticut & Rh Isl^{d} thickly peopled of all the most ["populous of" stricken out] the States, and having of course their thoughts most turned to the subject of manufactures. A like inference may be confidently applied to N. Jersey, whose debates in Convention ["were not" stricken out] have not been preserved. In the populous and manufacturing State of P^{a}, a partial account only of the debates having been published, nothing certain is known of what passed in her Convention on this point. But ample evidence may be found elsewhere, that regulations of trade for the encouragement of manufactures, were considered as within the power ["proper" stricken out] to be ["exercised by" stricken out] granted to the new Congress, as well as within the scope of the national policy. Of the States South of Pen^{a} the only

in
two ^ whose Conventions the debates have been preserved are Virg[a] & N. Carol[a] and from these no adverse inferences can be
otherwise
were ["elsewhere" stricken out] given
drawn; whilst sufficient proofs ["appear" stricken out] that the power in question, was understood by Virg[a] to be within
purview ["policy" stricken out] of a with respect to N. C. ["the more" stricken out]
the ^ Constitutional Reform: and ["from the situation of N. C.,
destined as she was by her less commercial position to
as comparatively a non-commercial State, & the more destined on that account to" stricken out] become a manufacturing
moreover by
State, and liable ^ to be taxed ["by the her neighbors" stricken out] the commercial regulations of her neighbors, whatever
["as long as the" stricken out]
might be the object of the tax, ["whilst the regulating
she could not but have
power remained with the States, it can not be doubted that
["purpose" stricken out]
her she" stricken out] ^ concurred in ["the wish and"
a transfer from the States to the U. S. of the commercial
stricken out] the anticipation of ^ ["the a transfer ^ of the power
as well other
power ^ in its rela- to manufactures, as in its ^ relations. ["to revenue" stricken out]
to encourage manufactures as well as to effect other purposes,
["regulation" stricken out]
by commercial impost" stricken out]. Nor is there the
["either" erased] indication
slightest ["indication that the subject was viewed in a differ-
that either of
ent light by" stricken out] the two States farthest South,
where the debates in Convention if preserved have not been
viewed
made public ^ the encouragement of manufactures as not
over trade ["by all" stricken out]
within the general power ["which all contemplated ^ as"
stricken out] to be transferred to the Gov[t] of the U. S.

["[6. States viz in their ratifying Conventions recomended various amend[ts] to the Constitution, not one of which indicates a a doubt or an objection as to the usual application of the power, over trade to the encourag[t] of manufactures.]" stricken out]

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8 ["9" stricken out] That the encouragement of Manufactures, was an object of the power to regulate trade, is proved by the use made of the power for that object, in the

first ["act" stricken out] session of the first Congress under the Constitution; when among the members present were so many who had been members of the federal Convention which framed the Constitution, and of the State Conventions which ratified it; each of these classes consisting also of members who had opposed & who had espoused, the Constitution in its actual form. ["∧" stricken out] It does not appear from the printed proceedings of Congress on that occasion that the power was denied ["or questioned" stricken out] by any of them. And it may be remarked that members from Virg[a] in particular, as well of the antifederal as the federal party, the names then distinguishing those who ["se opp" stricken out] had opposed and those who had approved the Constitution, did not hesitate to propose duties, & to suggest even prohibition in favor of ["certain" stricken out] several articles of her production; ["one of them" stricken out] By one a duty was proposed ["by another" stricken out] on mineral Coal in favor ["on Hemp, & on Beef [see Lloyds Debates]" stricken out] ["& by a third a prohibition even was suggested" stricken out] a duty on Hemp was proposed to encourage the growth of that article; and by a third a prohibition even of foreign Beef, was suggested as a measure of sound policy. [see Lloyd's Debates]

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It ["has been" stricken out] is seen with no little surprize, that an at[t]empt has been made, in a highly respectable quarter, and at length reduced to ["a formal proposition in Congress" stricken out] a resolution formally proposed in Congress, to substitute for the power of Cong[s] ["to" stricken out] to regulate trade so as to encourage manufactures, a power in the several States ["∧" stricken out] to do so, with the consent of that Body; and this expedient is derived from ["the cl" stricken out] a clause in the 10. Sect. of Art: 1. of the Const: which says

["Passing by the obvious, and hitherto the only object of" stricken out] ["meaning attached to" the clause, namely that of a provision for so allowing incident ["the expences" stricken out] to their ["the execution of their" stricken out] inspection laws; & ["for" stricken out] other unforeseen occasions ["cases" stricken out] of

falling within the reason of the foreseen case, as indicated by the Journal of the Convention of 1787, and by the application of the applying the the clause, on the application of Virg[a] & Georgia, in the case of improving a river to local improvements connected with har in harbours and the navigation of rivers leading to them:" stricken out]

To say nothing of the clear indications in the Journal of the Convention of 1787, that the clause was intended merely to provide for expences incurred by particular States in their Inspection laws, and in such improvements as they might chuse to make in their Harbours & rivers with the sanction of Cong[s] objects to which the reserved power has been applied in several instances, ["on (see to" stricken out] at the request of Virginia & of Georgia; how could it ever be imagined that any State would ["wish to be willing" stricken out] to tax its own trade for the encouragement of manufactures, ["if it had the authority" stricken out], or could in fact do so, if ["they wished it" stricken out].

A tax on imports would be a tax on its own consumption; and the nett proceed["s" written upon "ings"], according to the clause, ["going" stricken out] not into its own treasury, but into the treasury of the U. S. ["it" stricken out] the State would tax itself separately for the equal gain of all the other States; and as far as the manufactures ["en" stricken out] so encouraged might succeed in ultimately increasing the Stock in Market, and lowering the price by competition, this advantage also, procured at the sole expence of the State, would be common to all the others.

But the very suggestion of such an expedient to any state would have an air of mockery, when its ["utter" stricken out] experienced impracticability is taken into view. No one who recol-

lects or recurs to, the period when the power ["to" stricken out] over commerce was in the individual States, & separate attempts were made to tax or otherwise regulate it, need be told that the attempts were not only abortive, but by demonstrating the necessity of general & uniform ["ity" stricken out] regulations gave the original impulse to the Constitutional reform which ["for" stricken out] provided for ["such," stricken out] ["them" stricken out] such regulations.

To refer a State therefore to the exercise of a power as reserved to her by the Constitution, the impossibility of ["a successful" stricken out] exercising ["of" stricken out] which was an inducement to adopt the Constitution, is of all remedial devices the last that ought to be brought forward. And what ["give it" stricken out] renders it the more ["preposterous, is, that if the" stricken out] extraordinary is that, as ["as far a" stricken out] the tax on commerce as far as it could be separately collected, instead of belonging to the treasury of the State as previous to the Const[n] ["it becomes under it" stricken out] would be a tribute to the U. S: ["thus putting" stricken out] the State would be in a worse condition, after the adoption of the Constitution, than before, ["in in a case of" stricken out] in ["the" stricken out] relation to an important interest, ["for the" stricken out] the improvement of which was a particular object in adopting the Constitution.

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[James Madison] to Jos. C. Cabell

[Madison Papers, vol. X, p. 132. Draft.]

Montpellier Feb[y] 2. 1829—

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What the extract is to be from Yates account of the Convention, which convicts me of inconsistency, I cannot divine—

If any thing stated by him has that tendency, it must be among the many errors in his crude & broken notes of what passed in that Body. When I looked over them some years ago, I was struck with a number of instances in which he had totally mistaken what was said by me, or given it in scraps & terms, which, taken without the developments or qualifications accompanying them, had an import essentially different from what was intended. Mr Yates bore the character of an honest man, & I do not impute to him wilful misrepresentation. But beside the fallible & faulty mode in which he noted down what passed, the prejudices he felt on the occasion, with those of which he was a Representative, were such as to give every tincture & warp to his mind of which an honest one could be susceptable. It is to be recollected too that he was present during the early discussions only, which were of a more loose & general cast; having withdrawn to make his welcome Report, before the rough materials were reduced to the size & shape proper for the contemplated Edifice. Certain it is that I shall never admit his report as a test of my opinions, when not in accordance with those which have been repeatedly explained & authenticated by myself. The Report of Luther Martin is as little to be relied on for accuracy & fairness.

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[Madison Papers, vol. LXXI, p. 33.]

Jared Sparks to His Excellency James Madison.

Washington, May 5th 1830

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Since my return I have conversed with Mr Adams concerning Charles Pinckney's draft of a constitution. He says it was furnished by Mr Pinckney, and that he has never

been able to hear of another copy. It was accompanied by a long letter (written in 1819) now in the Department of State, in which Mr Pinckney claims to himself great merit for the part he took in framing the constitution. A copy of this letter may doubtless be procured from Mr Brent, should you desire to see it. Mr Adams mentioned the draft once to Mr Rufus King, who said he remembered such a draft, but that it went to a committee with other papers, and was never heard of afterwards. Mr King's views of the subject, as far as I could collect them from Mr Adams, were precisely such as you expressed. [Doc. Hist., I, 309.]

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J. M.[adison] to Jared Sparks [Madison Papers, vol. XI, p. 27. Draft.]

Oct. 5. 1830

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The No. of the N. American Review for Jany. last, being I find, a duplicate, I return it. The pages to which you refer throw a valuable light on a transaction which was taking historical root, in a shape ["very" stricken out] unjust as well as erroneous. Did you ever notice the "Life of Mr. Jay" in Delaplaine's biographical ["publication" stricken out] work. The materials of it were evidently derived from the papers, if not the pen of Mr. Jay, and are marked by the misconceptions into which he had fallen. It may be incidentally noted as one of the confirmations of the fallibility of Hamilton's memory in allotting the Nos. in the "Federalist", to the respective writers, that one of them, ["shewn" stricken out] which No. 64. appear["s" written upon "ing"] as it certainly was, by Delaplaine, to have been written by Mr. Jay is put on the ["wrong list" stricken out] list of Mr. Hamilton, as was ["certainly" stricken

not less ["also" stricken out] certainly
out] the case with a number of others, written by ["another of them." stricken out] another hand.

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[Madison Papers, vol. XI, p. 28. Draft.]

J. J. [James Madison] to M^r [Edward] Everett

Montp^r Octr 7. 30

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You will excuse me for suggesting that you have erred in stating that I wrote the greatest part of the "Federalist". A greater number of the papers were written by Col. Hamilton, as will be seen by the correct distribution of them in the Washington Edition ["of them" stricken out] by Gideon. A very few of the N^os were from the third hand.

[Madison Papers, vol. XI, p. 35. Draft.]

J. M.[adison] to A.[ndrew] Stevenson

Montp^r Novr 27. 1830

I have rec^d your very friendly favor of the 20th instant, ["in which you" stricken out] refer-ring to a conversation when I had lately the pleasure of a visit from you, in which you mentioned your belief that the terms "common defence & general welfare" in the 8th Section of the first Article of the Constitution of the U. S. were still regarded by some as conveying to Congress a substantive & indefinite power; and in which I communicated my views of the introduction and occasion of the terms, as precluding that comment on them; and you express a wish that I would repeat those views in the answer to your letter.

However disinclined to the discussion of such topics at a time when it is so difficult to separate in the minds of many, questions purely Constitutional from the party polemics of

the day, I yield to the ["considerations on which your request is founded; and the rather as instead of" stricken out] precedents which you think I have imposed on myself, & to the consideration that without relying on my personal recollections, which your partiality overvalues, I shall derive my construction of the passage in question, from sources of information & evidence known or accessible to all who feel the importance of the subject, and are disposed to give it a patient examination.

In tracing the history & the import of the terms determining "Common defence & general welfare" as found in the text of the Constitution the following lights are furnished by the printed Journal of the Convention which formed it.

The terms appear in the general propositions ["originally offered by Mr Randolph, May 29th the first of" stricken out] May 29 as a basis offered ["an introductory" stricken out] ["as a basis deliberations of the" stricken out] for the incipient deliberations, the first of which "Resolved that the Articles of the Confederation ought to be so corrected & enlarged as to accomplish the objects proposed by their institution, namely—common defence, security of liberty, and general welfare". On the day following, the proposition was exchanged for Resolved "that an Union of the States merely federal will not accomplish the objects proposed by the Articles of Confederation; namely, common defence, security of liberty and general welfare".

The inference from the use here made of the terms, & from the proceedings on the subsequent propositions ["of Mr Randolph" stricken out] is, that altho' ["they" stricken out] Common defence & general welfare were objects of the Confederation, they were limited objects, which ["could not" stricken out] ought to be enlarged by an enlargement of the ["chartered" stricken out] to which they were ["defined" stricken out] limited— particular powers and to be accomplished by a change in the structure of the Union from a form merely federal to one partly national, and as these general terms are

prefixed in the [“same order” stricken out] like relation to the several Legislative powers in the new Charter, as they were in the Old, they must be understood to be [“limited” stricken out] under like limitations in the new as in the Old.

In the course of the proceedings between the 30th of May & the 6th of Augt the terms Common defence, & General welfare as well as other equivalent terms [“must” stricken out] must have been dropped: for they do not appear in the Draft of a Constitution, reported on that day, by a Committee appointed to prepare one in detail; the clause in which those terms were afterwards inserted, being, simply in the Draft “The Legislature of the U. S. shall have power to lay & collect taxes duties, imposts & excises”.

The manner in which the terms became [“came to be afterwards” stricken out] transplanted from the Old into the new System of Government, is explained by a course somewhat adventitiously given to the proceedings of the Convention.

On the 18th of Augst among other propositions referred to the Committee which had reported the draft was one “to secure the payment of the Public debt.”, and,

On the same day, was appointed a Committee of Eleven members, (one from each State) “to consider the necessity & expediency of the debts of the several States, being assumed by the U. States”

On the 21st of Augst this last Committee reported a clause in the words following “The Legislature of the U. States shall have power to fulfil the engagements, which have been entered into by Congress, and to discharge as well the debts [“of the debts” stricken out] of the U. States, as the debts incurred by the several States, during the late war, for the common defence and general welfare”; conforming herein

to the 8th. of the Articles of Confederation, the language of which is, that "all charges of war and all other expences that shall be incurred for the common defence and general welfare, and allowed by the U. S in Congress assembled, shall be defrayed out of a common treasury" &c.

On the 22d. of Augst. the Committee of five reported among other additions to the clause giving power "to lay and collect taxes imposts & excises," a clause in the words following "for payment of the debts and necessary expences", with a proviso qualifying the duration of Revenue laws.

This Report being taken up, it was moved, as an amendment, that the clause should read "the Legislature shall fulfil the engagements and discharge the debts of the U. States"

It was then moved to strike out "discharge the debts", and insert ["the claims" stricken out] "liquidate the claims"; which being rejected, the amendment was agreed to as proposed viz "the Legislature shall fulfil the engagements & discharge the debts of the U. States".

On the 23d. of Augst. the clause was made to read "the Legislature shall ["have the power" stricken out] fulfil the engagements and discharge the debts of the U. States, and shall have the power to lay & collect taxes duties imposts & excises" the two powers relating to taxes & debts being merely transposed.

On the 25th. of August, the clause was again altered so as to read "all debts contracted and engagements entered into by or under the authority of Congress (the Revolutionary Congress) shall be as valid under this Constitution as under the Confederation"

This amendment was followed by a proposition (referring to the powers to lay & collect taxes &c—and to discharge the debts (old debts) to add "for payment of said debts, and for defraying the expences that shall be incurred for the common defence & general welfare". The proposition was disagreed to, one State only voting for it.

Sep[r] 4. The Committee of eleven reported the following modification—"The Legislature shall have power to lay & collect taxes duties imposts and excises, to pay the debts and provide for the common defence & general welfare"; thus retaining the terms of the Articles of Confederation, & covering by the general term "debts", those of the Old Congress.

A special provision in this mode could not have been necessary for the debts of the New Congress: For a ["general" stricken out] power to ["raise money" stricken out] ["impose taxes" stricken out] to provide money, and a power to perform certain acts of which ["money is" stricken out] ["taxes are" stricken out] money is the ordinary & appropriate ["instrument, must" stricken out] means, must of course carry with them a power to pay the ["of defraying the" stricken out] expence of performing the acts. Nor was any special provision for debts proposed, till the case of the Revolutionary debts was brought into view, and it is a fair presumption from the course of the varied propositions which have been noticed, that but for the old debts, and their association with the terms "common defence & general welfare", the clause would have remained as reported in the first Draft of a Constitution, expressing ["simply" stricken out] generally a "power in Congress to lay and collect taxes duties imposts & excises"; without any addition of the phrase ["terms" stricken out] "to provide for the common defence & general welfare". ["Had indeed Had indeed" stricken out] With this

addition indeed [“been made to the clause, without the intervening provision for the old debts” stricken out], the language of the clause [“then” stricken out] being, [“ “to lay and collect taxes duties imposts & excises” stricken out] in conformity with that of the [“article” stricken out] clause in the Articles of Confederation, it would be qualified, as in those Articles, by the specification of powers subjoined to it. But there is sufficient reason to suppose that the terms in question would not have been introduced but for [“that” stricken out] the introduction of the old debts, with which they happened to stand in a familiar tho’ inoperative relation. Thus introduced however, they passed undisturbed thro’ the subsequent stages of the Constitution.

If it be asked why the terms “common defence & general welfare”, if not meant to convey the comprehensive power, which taken literally they express, were not qualified & explained by some reference to the particular powers subjoined, the answer is at hand, [“the question is equally pertinent, and” stricken out] that altho’ it might [“have” stricken out] easily have been done, and experience shews it might be well if it had been done, yet the omission is [“readily” stricken out] accounted for by an inattention to the [“the slight attention given to the terms” stricken out] phraseology, occasioned, doubtless, by its identity with the harmless character attached to it in the Instrument from which it was borrowed ¶ But may it not be asked with infinitely more propriety, and without the possibility of a satisfactory answer, why, if the terms were meant to embrace not only all the powers particularly expressed, but the indefinite power which has been claimed under them, the intention was not so declared; why on that supposition, so much critical labor was employed in enumerating the particular

powers; and in defining and limiting ["guarding" stricken out] their extent? ["There are instances of in which powers previously conveyed by an implication rather unavoidable than violent, are by ["reiterated by an express" stricken out] again expressed with more particularity, which could only have been suggested by the idea, that as the Goverment was to be one of limited, not unlimited powers, it was better to be superfluously cautious than to favor a laxity of construction." ["subversive of the limitation." stricken out] stricken out]

The variations & vicissitudes in the modifation of the clause in which the terms, "common defence & general welfare" appear, are remarkable; and to be no otherwise explained, than by differences of opinion concerning the necessity or the form, of a constitutional provision for the debts of the Revolution; some of the members, apprehending improper claims for losses, by depreciated emissions of bills of credit; others an evasion of proper claims if not positively brought within the authorized functions of the new Gov^{t}; and others again considering the past debts of the U. States as sufficiently secured by the principle that no change in the Gov^{t} could change the obligations of the nation. Besides the indications in the Journal, the history of the period sanctions this explanation.

But it is to be emphatically remarked, that in the multitude of motions, propositions, and amendments, there is not a single one having reference to the terms "common defence & general welfare", unless we ["are" stricken out] were so to understand the proposition containing them, made on Aug. 25. which was disagreed to by all the States ["but one" stricken out] except one. ["The disagreement however had probably no connection was probably the result of some other consideration." stricken out]

The obvious ["and inevitable" stricken out] conclusion to which we are brought is, that these terms copied from the Articles of Confederation, were regarded in the new as in the old Instrument merely as general terms, explained & limited by the subjoined specifications; and therefore requiring no critical attention or studied precaution

If the practice of the Revolutionary Congress be pleaded ["in favor of" stricken out] in opposition to this view of the case, the plea is met by the ["fact" stricken out] notoriety that on several accounts the practice of that Body is not the expositor of the "Articles" ["Instrument" stricken out] of Confederation". These Articles were not in force till they were finally ratified by Maryland in 1781. Prior to that ["date" stricken out] event the power of Congress was measured by the exigencies of the war, and derived its sanction from the acquiescence of the States. After that event, habit and a continued expediency, amounting often to a real or apparent necessity, prolonged the exercise of an undefined authority; which was the more readily overlooked; as the members of the Body held their seats during pleasure, as its Acts, particularly after the failure of the Bills of Credit, depended for their efficacy on the will of the States; and as its general impotency became manifest. ["The" stricken out] Examples of departure from the prescribed rule, are too well known to require proof. The case of the old Bank of N. America ["may" stricken out] might be cited as a memorable one. The incorporating Ordinance grew out of the inferred necessity of such an Institution to carry on the war, by aiding the finances which were starving under the neglect or inability of the States to furnish their assessed quotas. Congress was at the time so much aware of the

deficient authority, that they recommended it to the State Legislatures to pass laws giving due effect to the Ordinance: which was done by Pennsylvania and several other States. In a little time, however, so much dissatisfaction arose in Pennsylvania where the Bank was located, that it was proposed to repeal the law of the State in support of it. This brought on attempts to vindicate the adequacy of the power of Congress, to incorporate such an Institution. Mr Wilson, justly distinguished for his intellectual powers ["talents" stricken out], being deeply impressed with the importance of a Bank at such a Crisis, published a small pamphlet, entitled "Considerations on the Bank of N. America", in which he endeavored to derive the power from the nature of the Union, in which the Colonies were declared & became Independent States; and also from the tenor of the "Articles of Confederation" themselves. But what is particularly worthy of notice is, that with all his anxious search in those Articles for such a power, he never glanced at the terms "Common Defence & general Welfare" as a source of it. He rather chose to rest the claim on a recital in the ["Instru" stricken out] text, "that for the more convenient management of the general interests of the United States, Delegates shall be annually appointed to meet in Congress, which he said implied that the United States had general rights, general powers, and general obligations; not derived from any particular State, nor from all the particular States, taken separately; but "resulting from the Union of the whole" these general powers, not being controuled by the Article declaring that each State retained all powers not granted by the Articles, because "the individual States never possessed & could not retain a general power over the others"

The authority & argument here resorted to, if proving ["on one hand" stricken out] the ingenuity & patriotic anxiety of the author on one hand, ["prove on" stricken out] shew sufficiently on the other, that the terms "common defence & general welfare c^d not according to the known acceptation of them avail his object.

That ["they could" stricken out] the ["se" stricken out] terms in question were not suspected, in the Convention which formed the Constitution of any such meaning as has been constructively applied to them, may ["indeed" stricken out] be pronounced with entire confidence. For it exceeds the possibility of belief, that the known advocates in the Convention for a jealous grant & cautious definition of federal powers, should have silently permitted the introduction of words or phrases in a sense rendering fruitless the restrictions & definitions elaborated by them.

Consider for a moment the immeasurable difference between the Constitution limited in its powers to the enumerated objects; and expanded as it would be by the import claimed for the phraseology in question. The difference is equivalent to two Constitutions, of characters essentially contrasted with each other; the one possessing powers confined to certain specified cases; the other extended to all cases whatsoever: For what is the case that would not be embraced by a general power to raise money, a power to provide for the general welfare, and a power to pass all laws necessary & proper to carry these powers into execution; ["and" stricken out] all such provisions and laws superseding, ["expressly" stricken out] at the same times, all local laws & constitutions at variance with them. Can less be said with the evidence before us furnished by the Journal of the Convention itself, than that it is impossible that such a Constitution as the latter would have been recommended to

the States by all the members of that Body whose names were subscribed to the Instrument. ["Constitution" stricken out]

Passing from this view of the sense in which the terms common defence & general welfare were used by the Framers of the Constitution, let us look for that in which they must have been understood by the Conventions, or rather by the people who thro' their Conventions, accepted & ratified it. And here the evidence is if possible still more irresistible, that the terms could not have been regarded ["viewed" stricken out] as giving a scope to federal Legislation, infinitely more objectionable, than any of the specified powers which produced ["a" stricken out] such strenuous opposition ["to the Instrument" stricken out], and calls for amendments ["as necessary" stricken out] ["would be" stricken out] which might be safeguards against the dangers apprehended from them.

Without recurring to the published debates of those Conventions, which as far as they can be relied on for accuracy, would it is believed not impair the evidence furnished by their recorded proceedings, it will suffice to consult the lists of amendments proposed by such of the ["Ratifying" stricken out] Conventions as considered the powers granted to the new Government too extensive or not safely defined.

Besides the restrictive & explanatory amendments to the text of the constitution it may be observed, that a long list was premised under the name & in the nature of "Declarations of Rights"; all of them indicating a jealousy of the federal powers, and an anxiety to multiply securities against a constructive enlargement of them. But the appeal is more particularly made to the number & nature of the amendments proposed to be made specific & integral parts of the Constitutional text.

No less than seven States, it appears, concurred in adding to their ratifications, ["lists" stricken out] a series of amendments, wch they deemed requisite. Of these amendments nine were proposed by the Convention of Massachusets; five by that of S. Carolina; twelve by that of N. Hampshire; twenty by that of Virginia; thirty three by that of N. York; twenty six by that of N. Carolina; twenty one by that of R. Island.

Here are a majority of the States, proposing amendments, in one instance thirty three by a single State; all of them intended to circumscribe the powers granted to the General Government by explanations restrictions or prohibitions, without including a single proposition from a single State, referring to the terms, common defence & general welfare; which if understood to convey the asserted power, could not have failed to be the power most strenuously ["assailed" stricken out] aimed at because evidently more alarming in its range, than all the powers objected to put together. And that the terms should have passed altogether unnoticed by the many eyes wch saw danger in terms & phrases employed in some of the most minute & limited of the enumerated powers, must be regarded as a demonstration, that it was taken for granted that the terms were harmless, because explained & limited, as in the "Articles of Confederation", by the enumerated powers ["to" stricken out] which ["they were prefixed" stricken out] followed them.

A like demonstration, that these terms were not understood in any sense that could invest Congress with powers not otherwise bestowed by the Constitutional Charter may be found in what passed in the first Session of the first Congress, when the subject of Amendments was taken up, with the conciliatory view of freeing the Constitution

from objections which had been made to the extent of its powers, or to the unguarded terms employed in describing them. Not only were the terms "common defence and general welfare", unnoticed in the long list of amendments brought forward in the outset; but the Journals of Cong[s] shew that in the progress of the discussions, not a single proposition was made in either branch of the Legislature which referred to the phrase as admitting a constructive enlargement of the granted powers, and requiring an amendment guarding against it. Such a forbearance & silence on such an occasion, and among so many members who belonged to the part of the nation, which called for explanatory & restrictive amendments, and who had been elected as known advocates for them, can not be accounted for without supposing that the terms "common defence & general welfare", were not at that time deemed ["thought" stricken out] susceptible of ^ ["suspected of any" stricken out] any such construction as has since been applied to them.

It may be thought perhaps, due to the subject, to advert to a letter of Oct[r] 5. 1787 to Samuel Adams ^ and another of Oc[r] 16 of the same year to the Governor of Virginia, from R. H. Lee, in both which, it is seen that the terms had attracted his notice, and were apprehended by him "to submit to Congress every object of human Legislation". But it is particularly worthy of Remark, that altho' a member of the Senate of the U. States, when Amendments to the Constitution were before that House, and sundry additions & alterations were there made to the list sent from the other, no notice was taken of those terms as pregnant with danger. It must be inferred ["infer" stricken out] that the opinion formed by the distinguished member at the first view of the Constitution, & before it had

been fully discussed, & elucidated, had been changed into a conviction that the terms did not fairly admit the construction he had originally put on them: and therefore needed no [explanatory "amendatory" stricken out] precaution agst it.

I close these remarks which I fear may be found tedious with assurances of my great esteem, and best regards

a final paragraph ["for" stricken out] for the letter of Novr 27. 1830 to Mr Stevenson. [Madison Papers, vol. XI, p. 36. Draft.]

Sir
Allow me My dear to express on this occasion, what I always feel, an anxious hope, that as our Constitution rests on a middle ground between a form, wholly national, and one merely federal, and on a division of the powers of Gov^{t} between the States in their united ["capacity" stricken out] character ["individual capacities" stricken out], and in their individual characters, this peculiarity of the System will be kept in view as a key to the sound interpretation of the ["System" stricken out] Instrument and a warning agst any doctrine that would either enable the States to invalidate ["all" stricken out] the powers of the U. States, or confer all power on them["selves" stricken out]

Jared Sparks to His Excellency, James Madison. [Madison Papers vol. LXXI, p. 100.]

New York, March 30th 1831

Having recently engaged to write a life of Gouvernieur Morris, which is to be published with a selection from his writings, I take the liberty to apply to you for a few hints respecting the part he acted in the convention of 1787. From several quarters I have understood, that he was an active member, and had a good deal of weight and influence, but the published account of that convention is so meagre, such a very skeleton of dry bones with hardly

a sinew, muscle, or ligature, to tell that it was a living thing, that it is impossible to ascertain from it the relative standing or prevailing views of any member.

Was Morris with Hamilton on the prominent doctrines of the constitution, or did he incline to the more democratic side? Was he a frequent speaker, and an efficient member? Was he the author of any of the important features of the constitution? Did he set forth any particular views, which he labored to enforce & establish?

I have been told by several persons, who professed to know the fact, that the constitution in its present form and language is from his pen; that is, after all debates were finished, and each particular had been adopted in substance, the instrument was then put into his hands to be wrought into proper phraseology & style. His friends here are in the habit of thinking, that much is due to him for the clear, simple, & expressive language in which the constitution is clothed.

The following anecdote is also current among those, who suppose themselves well informed on the point. During the sitting of the convention G. Morris was absent several days to attend the funeral of his mother. On his return he called at the house of Robert Morris, where he found Washington, who, with R. Morris, was much dejected at what they deemed the deplorable state of things in the convention. Debates had run high, conflicting opinions were obstinately adhered to, animosities were kindling, some of the members were threatening to go home, and at this alarming crisis a dissolution of the convention was hourly to be apprehended. Instructed in these particulars, G. Morris went into the convention on the day following, and spoke with such eloquence

and power on the necessity of union, of partial sacrifices, & temperate discussion, that he effected a change in the feelings of the members, which was the means of restoring harmony, and ultimately of effecting the objects of the convention. It is added, that, as his absence had prevented his partaking of the warmth, which had grown out of the previous discussions, his counsel & apparent disinterestedness had the greater effect. Do you recollect any incident of this sort?

You will doubtless excuse me for troubling you with the above questions, since there is no other source, written or unwritten, to which I can apply for information, and since the world is become so curious to know all that pertains to the origin & history of the Constitution. Whatever you may think proper to communicate on this subject, I trust will be used with discretion. In touching on that part of Mr Morris's life, I shall take an opportunity to speak of the convention according to such light as I shall possess.

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[James Madison] to M[r] [J. K.] P[aulding]

[Madison Papers, vol. XI, p. 54. Draft.]

Apl. 1831

Much curiosity & some comment have been excited by the marvellous identities in a "Plan of Gov[t] [" submitted" proposed stricken out] by Ch[s] Pinckney in the Conv[n] of 1787, [" as furnished by him as published in the Journals to M[r]" stricken out] with the text of the Constitution as finally agreed to. I find among my pamphlets a copy of a small one "entitled "Observations on the Plan of Gov[t] submitted to the Fed[l] Convention in Phil[a] on the 28th of May by M[r] C. P. a Delegate from S. C. delivered at different times in the Convention"

My ["The" stricken out] Copy is so defaced & mutilated that it is impossible to make out eno' ["for" stricken out]

of the Plan as referred to in the Observation, for a due comparison of it, with that printed in the Journal. ["An entire copy would doubtless is therefore is desirable" stricken out] The pamphlet was printed in N. Y by Francis Childs. The year ["being" stricken out] effaced: It must have been ["soon not very not" stricken out] long["er" stricken out] after the close of the Convention; and ["probably at the instance" stricken out] with the sanction at least of Mr P. himself. It has occurred that a copy may be attainable at the Printing office if still kept up, or ["in the" stricken out] some of the Libraries, or Historical Collections in the City ["in the City" stricken out]. When you can ["take advantage of a" stricken out] snatch a moment in yr walks ["with" stricken out] with other views; ["in" stricken out] for a call at ["those" stricken out] such places, you will promote an object of some little interest as well as delicacy, by ["as a enquiring" stricken out] ascertaining whether the article in question ["be a can be" stricken out] ["be in" stricken out] can be met with. I have among my manuscript papers, ["documents" stricken out] lights on the subject, ["but" stricken out] The pamphlet ["in question" stricken out] of Mr P. could not fail to add to them

[Madison Papers, vol. XI, p. 54. Draft.]

[James Madison] to J K Paulding

Montpr Apl 1831

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I will ["I may be allowed" stricken out] take the liberty on this occasion to correct a statement of Mr H. which ["otherwise impeach contradicts mine on the same mine on the same" stricken out] subject; and which as mine, if erroneous could not be ascribed to a lapse of memory, might otherwise be an impeachment of my veracity. I allude to the ["considerable" stricken out] discrepancy between the

memorandum of ["M[r] H." stricken out] given by M[r] H. to M[r] Benson, ["which" stricken out] distributing the N[os] of the "Federalist" to the respective writers, and the distribution communicated by me at an early day to a particular friend, & finally to M[r] Gideon for his Edition of the Work at Washington a few years ago.

The reality of errors in the Statement of M[r] H. appears from an internal evidence in some of the ["numbers" stricken out] papers which it ascribes to him. which the memorandum puts on his list" stricken out]. Take for an example ["that which comprizes a" stricken out] Nº 49, which contains a Eulogy on M[r] J—n, marking more of the warm feelings of personal friendship in the writer than ["M[r] H— could ever be believed to entertained for him. In another instance still more decisive, the N° 64. is ascribed to M[r] H. which is well known to have been from the Pen of M[r] Jay; and is proved to have been so" stricken out] by a passage in his Life by Delaplaine obviously ["sanctioned" stricken out] derived directly or indirectly ["from by the authority of" stricken out] M[r] Jay himself. at any time belonged to M[r] Hamilton. But there is proof of another sort in Nº 64. ascribed in the memorandum to M[r] H. That it was written by M[r] Jay, is shewn There is a like proof that Nº. 54 ["ascribed to M[r] Jay instead of M[r]" stricken out] was not written by ["M[r] Jay." stricken out] him (ascribed to M[r] Jay) from

Nor is it difficult to account for errors in the memorandum, if recurrence be had to the moment at which ["it was" stricken out] a ["the" promise of ["one" stricken out] such a one stricken out] was fulfilled; to the lumping manner in which it was made out; and to the period of time, not less than years between the date of the ["papers" stricken out] "Federalist", and that of the memorandum; and as a proof of the fallibility to which the memory of M[r] H. was occasionally subject, ["I" stricken out] a case may be referred to so ["remarkable" stricken out] decisive ["as to render other evidence proof un" stricken out] as to dispense with every other ["proof" stricken out]. In the year M[r] H— in a letter answering an enquiry of Col. Pickering concerning the plan of Gov[t] which he had ["proposed been said to" stricken out]

espoused in the Convention of 1787., states that at the close of the Convention he put into my hands a draught of ["his plan of" stricken out] a Constitution; ["a Const^{n} at full length, such as conformed to his views," stricken out] and that in that draft he had ["therein" stricken out] proposed a "President for three years," (see the letter in Niles's Register). Now the fact is, that in that plan, the original of which I ["have" stricken out] ascertained several years ago, to be among his papers, the tenure of office for the President is not, ["for" stricken out] 3 years, but during good behaviour The error is the more remarkable ["wonderful" stricken out], as the letter according to my recollection apologizes for ["for" stricken out] its being not a prompt one; and as it is so much at variance with the known cast of of M^{r} H's political tenets ["doctrines" stricken out], that it must have astonished his politic^{l} & most of all his ["astounded his political &" stricken out] intimate friends. I sh^{d} do injustice nevertheless to myself as well as to Mr H. if I did not ["say" stricken out] ["that I sh^{d} be among the last to" stricken out] express my perfect confidence that the mistatement was involuntary, and that he was incapable of any ["other" stricken out] that was not so.

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[Madison Papers, vol. LXXII, p. 14.]

Jared Sparks to His Excellency, James Madison.

Boston, May 24th 1831

I am under many obligations to you for your full and satisfactory letter, respecting the part taken by Gouverneur Morris in the Convention. The information is valuable, & not to be obtained in any other Quarter.

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In touching on the Convention, I shall state the matter relating to Mr. Pinckney's Draft, as I have heard it from you, and from Mr Adams as reported to him by Mr King.

Justice and truth seem to me to require this exposition. I shall write to Charleston, and endeavor to have the Draft inspected, which was left by Mr Pinckney. Your explanation, that he probably added particulars as they arose in debate, and at last forgot what was original and what superadded, is the only plausible way of accounting for the mystery, and it may pass for what it is worth. Should any thing occur to you, which you may think proper to communicate to me on the subject, I shall be well pleased to receive it.

Pray can you inform me whether any others of the signers of the Constitution are now living except yourself?

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[James Madison] to J. K. Paulding

[Madison Papers, vol. XI, p. 59. Draft.]

June 6. 1831

Since my letter answering yours of Ap.[l] 6, in which I requested you to make an enquiry concerning a small pamphlet of Charles Pinckney printed at the close of the Fed.[l] Convention of 1787, it has occurred to me that the pamphlet might not have been put in circulation, but only presented to his friends &c. In that way I may have become possessed of the copy to which I referred as in damaged state. On this supposition the only chance of success must be among the Books &c. of individuals on the list of M.[r] P–'s political associates & personal friends. Of those who belonged to N. Y. I recollect no one so likely to have rec.[d] a Copy as Rufus King. If that was the case, it may remain with his Representative–and I would suggest an informal resort to that quarter, with a hope that you will pardon this further tax on your kindness

[Madison Papers, vol. LXXII, p. 19.]

Jared Sparks to His Excy, James Madison.

Boston, June 16th 1831

I have procured from the Department of State a copy of the letter from Mr Charles Pinckney to Mr Adams, when he sent his draft for publication. This letter is so conclusive on the subject, that I do not think it necessary to make any farther inquiry. It is evident, that the draft, which he forwarded, was a compilation made at the time from loose sketches and notes. The letter should have been printed in connexion with the draft. I imagine Mr. Pinckney expected it. He does not pretend that this draft was absolutely the one he handed into the Convention. He only "believes" it was the one, but is not certain.

Should you have leisure, I beg you will favor me with your views of this letter. It touches upon several matters respecting the history and progress of the Convention. Do these accord with your recollection? I would not weary or trouble you, but when you recollect that there is no other fountain to which I can go for information, I trust you will pardon my importunity.

[Madison Papers, vol. LXXII, p. 53.]

Jared Sparks to His Excy James Madison.

Boston, November, 14th 1831

My mind has got into a new perplexity about Pinckney's Draft of a Constitution. By a rigid comparison of that instrument with the Draft of the Committee reported August 6th they are proved to be essentially, and almost identically, the same thing. It is impossible to resist the conviction, that they proceeded from one and the same source.

This being established, the only question is, whether it originated with the committee, or with Mr Pinckney, and I confess that judging only from the face of the thing my impressions incline to the latter. Here are my reasons.

1. All the papers referred to the committee were Randolph's Resolutions as amended, & Patterson's Resolutions and Pinckney's Draft without having been altered or considered. The committee had them in hand nine days. Their Report bears no resemblance in form to either of the sets of resolutions, and contains several important provisions not found in either of them. Is it probable that they would have deserted these, particularly the former, which had been examined seriatim (in its form) in the convention, & struck out an entirely new scheme, of which no hints had been given in the debates?

2. The language and arrangement of the Report are an improvement upon Pinckney's Draft. Negligent expressions are corrected, words changed & sentences broken for the better. In short, I think any person examining the two for the first time, without a knowledge of circumstances, or of the bearing of the question, would pronounce the Committee's Report to be a copy of the Draft, with amendments in style, and a few unimportant additions.

3. If this conclusion be not sound, it will follow that Mr Pinckney sketched his draft from the Committee's Report, and in so artful a manner as to make it seem the original, a suspicion I suppose not to be admitted against a member of the convention for forming the Constitution of the United States.

Will you have the goodness to let me know your opinion? If I am running upon a wrong track I should be glad to get

out of it, for I like not devious ways, and would fain have light rather than darkness.

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P. S.—You may be assured, Sir, that I have no intention of printing anything on this subject, nor of using your authority in any manner respecting it. I am aware of the delicate situation in which such a step would place you, and you may rely on my discretion. I am greatly puzzled, however, in respect to the extraordinary coincidence between the two drafts. Notwithstanding my reasons above given, I cannot account for the committee's following any draft so servilely, especially with Randolph's Resolutions before them, and Randolph himself one of their number.—I doubt whether any clear light can be gained, till Pinckney's original draft shall be found, which is probably among the papers of one of the committee.—It seems to me that your secretary of the convention was a very stupid secretary, not to take care of these things better, and to make a better Journal, than the dry bones that now go by that name.

I presume you will have no objection to my printing your letter of April 8th last, respecting Gouverneur Morris in the convention. It is valuable in many points of view.

[Madison Papers, vol. XI, p. 80. Draft. Also rough duplicate, p. 81.]

[James Madison] to N. P. Trist.

Decr 1831.

I return with my thanks the printed speech of Col. Hayne on the 4th of July last. It is blotted with many strange errors, some of a kind not to have been looked for from a mind like that of the author.

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But I find that by a sweeping charge, my inconsistency is extended to "my opinions on almost every important question which has divided the public into parties". In supporting this charge, an appeal is made to "Yates' secret Debates in the Federal Convention of 1787", as proving that I originally entertained opinions adverse to the Rights of the States; and to the writings of Col. Taylor of Caroline, as proving that I was in that convention, "an advocate for a consolidated national Government.

Of the Debates, it is certain that they abound in errors, some of them very material in relation to myself. ["Apart from other without looking beyond" stricken out] Of the passages quoted, it may be remarked that they do not warrant the inference drawn from them. They import ["are" stricken out] "that I was disposed to give Congress a power to repeal State laws", and "that the States ought to be placed under the controul of the Gen! ["Gov^t" stricken out] Government, at least as much as they were formerly when under the British King & Parliament".

The obvious necessity of a controul on the laws of the States, so far as they might violate the Const^n & laws of the U. S. left no option but as to the mode. The ["three" stricken out] modes presenting themselves, were 1. a Veto on the passage of the State laws. 2. a Congressional repeal of them, 3 a Judicial annulment of them. The first tho extensively favord, at the outset, ["first" stricken out], was found on discussion, liable to insuperable objections, arising from the extent of Country, and the multiplicity of State laws. The second was not free from such as gave a preference to the third as ["not" stricken out] now provided by the Constitution. The opinion that the States ought to be placed not less

under the Govt of the U. S. than they were under that of G. B, can provoke no censure from those who approve the Constitution as it stands with powers exceeding those ever allowed by the Colonies to G. B., particularly the vital power of taxation, which is so indefinitely vested in Congs and to the claim of which by G. B. a bloody war, and final separation was preferred.

The author of the "Secret Debates", tho highly respectable in his general character, was the representative of the portion of the State of New York, which was strenuously opposed to the object of the Convention, and was himself a zealous partizan. His notes carry on their face proofs that they were taken in a very desultory manner, by which parts of sentences explaining or qualifying other parts, might often escape the ear. He left the Convention also on the 5th of July before it had reached the midway of its Session, and before the opinions of the members were fully developed into their ["precise" stricken out] matured & practical shapes. Nor did he conceal the feelings of discontent & disgust, which he carried away with him These considerations may account for errors; some of which are self-condemned. Who can believe that so crude and untenable a statement could have been intentionally made on the floor of the Convention ["Congs" stricken out] as "that the several States were political Societies, varying from the lowest Corporations, to the highest sovereigns" or "that the States had vested all the essential rights of Government in the old Congress."

On recurring to the writings of Col. Taylor*, it will be seen that he founds his imputation agst myself and Govr Randolph, of favoring a Consolidated National Govern[t] on the

*See "New Views." written after the Journal of Convn was printed.

Resolutions introduced into the Convention by the former, ["& supported by me" stricken out] in behalf of the Virg[a] Delegates, ["in a consultation of w[ch]" stricken out] whom they ["resulted" stricken out] from a consultation among were the result. The Resolutions imported that ["a Nat[l] L" stricken out] a Gov[t] consisting of a ["Nat– Legis Ex & Jud[l]" stricken out] National Legisl[re] Executive & Judiciary, ought to be substituted for the ["Fed[l]" stricken out] Existing Cong[s]. Assuming for the term National a meaning co-extensive with a Single Consolidated Gov[t] he filled a number of pages, in ["att" stricken out] deriving from that source, a support of his imputation. The whole course of proceedings on those Resolutions ought to have satisfied him that the term National as contradistinguished from Federal, ["did" stricken out] was not meant to express more than that the powers to be [" which " stricken out] vested in the new Gov[t] were to operate as in a Nat[l] Gov[t] directly on the people, & not as in the Old Confed[cy] on the States only. The extent of the powers to be vested, ["was" stricken out] also tho' expressed in loose terms, evidently had reference to limitations ["to be &" stricken out] & definitions, ["to be" stricken out] to be made a plenary in the progress of the work, distinguishing it from & Consolidated ["work" stricken out] Gov[t]

It ought to ["occur to all const[l] researches" stricken out] have occurred, ["in" stricken out] that the Gov[t] of the U. S being a novelty & a compound, had no technical terms or phrases appropriate to it; and that old terms were to be used in new senses, ["which" stricken out] or by the facts of the case. explained by the context ["are or if not by" stricken out]

Some exulting inferences have been drawn from the change noted in the Journal of the Convention, of the word National into "United States." The change

may be accounted for by a desire (to avoid a misconception) of the former, the latter being (preferred as a) familiar caption. That the change could have no effect on the real character of the Gov^t was & is obvious; this being necessarily deduced from the ["structure extent &" stricken out] (actual) structure of the Gov^t and the quantum of its powers.

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Another error has been in ascribing to the intention of the Convention which formed the Constitution, ["an" stricken out] (an undue) ascendency in expounding it. Apart from the (difficulty) ["uncertainty of this in inferring" stricken out] (of verifying) that intention (["in the Journal" stricken out]) it is clear, that if the meaning of the Constitution is to be sought out of itself, it is not in the proceedings of the Body that proposed (it) ["the Constitution" stricken out], but in those of the (State) Conventions which gave it all the (validy &) authority it possesses.

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[Madison Papers, vol. LXXII, p. 64.]

Jared Sparks to His Exc^y James Madison.

Boston, Jany 17th 1832

I have this moment received your very obliging note of the 7th instant. Yours of Nov. 25th also came safely to hand. As to the main point in question, this letter seems to me conclusive, but I am still a good deal at a loss about the first draft of the committee. The history of the composition of that draft would be a curious item in the proceedings of the convention. Perhaps it may hereafter receive elucidation from the papers of some member of that committee. Considering the nature of the testimony, I have tho't it best, in compliance with your suggestion, to say nothing about Mr Pinckney's draft. Indeed I have touched but slightly

upon the Convention, because Mr Morris left no papers on the subject.

Your letter, respecting the part he took in the convention, I have inserted in the memoir, & am sure it will be considered as a highly interesting contribution, not more by the public generally, than by Mr Morris's friends.

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[James Madison] to M[r] [John] Tyler

[Madison Papers, vol. XI, p. 110. Draft.]

This letter it appears was not sent to M[r] Tyler—tho' it seems a fair vindication of the parties assailed.

In your speech of ["(see pamphlet & newspaper)" stricken out] February 6th 1833 you say "He (Edmund Randolph) proposed (in the Federal Convention of 1787) a Supreme National Government, with a Supreme Executive, a Supreme Legislature, and a Supreme Judiciary, and a power in Congress to veto State laws. M[r] Madison I believe, Sir, was also an advocate of this plan of gov[t] If I run into error on this point, I can easily be put right. The design of this plan, it is obvious, was to render the States nothing more than the provinces of a great gov

I readily do you the justice to believe that it was far from your intention to do injustice to the Virginia Deputies to the Convention of 1787. But it is not the less certain that it has been done to all of them, and particularly to M[r] Edmond Randolph. ["Resolutions" stricken out].

The Resolutions proposed by him, were the result of a Consultation among the Deputies, the whole number, seven being present. The part which Virg[a] had borne in bring[g] ab[t] the Convention, suggested the Idea that some such

ernment to rear upon the ruins of the old Confed

initiative step might be expected from her Deputation; and M[r] Randolph was designated for the task. It was perfectly understood, that the Propositions committed no one to their precise tenor or form; and that the members of the Deputation w[d] be as free in discussing and shaping them as the other members of the Convention. M[r] R. was made the organ on the occasion, being then the Governor of the State, of distinguished talents ["& eloquence" stricken out], and in the habit of public speaking. Gen[l] Washington, tho' at the head of the list was, for ["for" stricken out] obvious reasons disinclined to take the lead. It was also foreseen that he would be immediately called to the presiding station

Now what was the plan sketched in the Propositions?

They proposed that "the Articles of Confederation sh[d] be so corrected and enlarged as to accomplish the objects of their Institution—namely common defence, security of liberty, and general welfare,": (the words of the Confederation)

That a national Legislature, a national Executive and a national Judiciary should be established: (this organization of Departments the same as in the adopted Constitution)

That the right of suffrage in the Legislature sh[d] be (not equal among
["That the Right of should be (not equal among the" stricken out] y[e] States as in the Confederation but) proportioned to quotas of contribution or numbers of free inhabitants, as might seem best in different cases"; (the same principle corresponding with the ["rule adopted rule" stricken out]) mixed rule adopted)

"That it should consist of two branches: the first elected by the people of the several States, the second by the first of a number nominated by the State Legislatures", (a mode of forming a Senate regarded as ["thought be justly" stricken out] more just ["more favorable" stricken out] to the large States, than the equality which was but not material in any other view. yielded to the small States by the compromise with them practicable. In reference to the equilib-

eracy a consolidated Government, one and indivisible".

rium between the General & the State authorities, the comparative influence of the two modes will ["practically" stricken out] depend on the question whether the small States, will ["be" stricken out] incline most, to the former or to the latter. scale)

That a national Executive, with a Council of Revision consisting of a number of the Judiciary, (wch Mr Jefferson wd have approved) and a qualified negative on the laws, be instituted, to be chosen by the Legislature for the term of years, to be ineligible a second time, and with a compensation to be neither increased nor diminished so as to affect the existing magistracy. (there is nothing in this Ex. modification, materially different in its Constitutional bearing from that ["political weight from the" stricken out] which finally adopted exists in the Constitution of the U. S.)

That a national Judiciary be established, consisting of a Supreme appellate and inferior, Tribunals, to hold their offices during good behavior, and with compensations, not to be increased or diminished, so as to affect persons in office (there can be nothing here ["materially" stricken out] subjecting it to unfavorable comparison with the article in the Constitution isting ex-)

"That provision ought to be made for the admission of new States lawfully arising within the limits of the U. S. wth the consent of a number of votes in the natl Legislature less than the whole". (This is not at variance wth the existing provision)

"That a Republican Govt ought to be guaranteed by the U. S. to each State. (this ["makes a part of" stricken out] is among the existing provisions)

"That provision ought to be made for amending the articles of Union, without requiring the assent of the National Legislature (this ["was" stricken out] is done in the Constn)

"That the ["Legisl:" stricken out] Legisl: Ex. & Judiciary powers of the several States ought to be bound by oath to support the Articles of Union (this was provided with the emphatic addition of—"any thing in the Const[n] or laws of the States notwithstanding)

"That the Act of the Convention, after ["being" stricken out] approbation the (then) Cong[s] ["to" stricken out] be submitted Representatives, to be expressly chosen by the people to decide thereon (This was the course pursued)

So much for the structure of the Gov[t] as proposed by M[r] Randolph, & for a few ["of" stricken out] miscellaneous provisions. When compared with Const[n] as it stands ["there is nothing" stricken out] that can be offensive to those who approve or are satisfied with the Const[n]

Let it next be seen what the powers proposed to be ["vested" stricken out] in the Gov[t] as distributed in its several Departments.

The Legislature, each branch possessing a right ["of" stricken out] to originate acts, was to enjoy the Legislative rights vested in the Cong[s] of the Confederation, ["and moreover to legislate in all cases" stricken out] (This must be free from objection, the powers of that description being left to the selection of the Convention.

2. cases to which the separate States, would be incompetent in which the harmony of the U. S. might be intercepted by individual Legislation. (It can not be supposed that these descriptive phrases were to be left in their indefinite extent to Legislative discretion. A definition of the ["m" stricken out] was to be the task of the Convention. If there could be any doubt that this was intended, it would be removed by the course of proceeding on them as recorded,

in its Journal. many of the propositions made in the Convention, fall within this remark: being, as is not unusual general in their phrase, but if adopted to be reduced to their proper shape & specification

3. to negative all laws passed by the several States contravening, in the opinion of the national Legislature, the Articles of Union or any Treaty subsisting under their Authority. (The necessity of some constitutional ["Controul on" stricken out] and effective provision ["controuling" stricken out] guarding the ["authority" stricken out] Const[n] & laws of the Union, ag[st] violations of them by the ["States" stricken out] laws of the States, was felt and taken for granted by all from the commencement, to the conclusion of the work ["submitted to be" stricken out] performed by the Convention. Every vote in the Journal involving the ["question" stricken out] opinion on this point, proves a unanimity among the Deputations, ["and finally if not throughout" stricken out]. A voluntary & unvaried concurrence of so many, (then 13 with a prospect of continued increase), ["in expounding" stricken out] distinct & independent authorities, in expounding & acting on a rule of Conduct, which must be the same for all, ["if" stricken out] or in force in none, was a calculation, forbidden by a knowledge of human nature, and especially so by the experience of the Confederacy, the defects of which were to be supplied by the Convention.)

With this view of the subject, the only question was ["in the choice of the" stricken out] the mode of controul on the Individual Legislatures. This might be either preventive or corrective; The former by a negative on the State laws; the latter by a Legislative repeal by a Judicial supersedeas, or by an administrative ["frustration" stricken out] arrest of them. The preventive mode as the best if equally practicable with the corrective, was brought by M[r] R. to the consideration of the Convention. It was, ["tho' much" stricken out] tho' not a little favored ["by its" stricken out]

as appears by the votes in the Journal [“was” stricken out] finally abandoned, as not reducible to practice. Had the negative been assigned to the Senatorial branch of the Gov.t [“which” stricken out] represented[g] the State Legislatures, [“where the whole of these, would have whole of” stricken out] a controul [“the power” stricken out] [“ing stricken out] each, the expedient would probably have been [“still” stricken out] still more favorably rec.d; tho' even in that form, subject to insuperable objections, [“particularly” stricken out] in the distance of many [“some” stricken out] of the State Legislatures, and the multiplicity of the laws of each.

Of the corrective modes, a [“Legislative repeal” stricken out] repeal by the National Legislature was pregnant with [“objections,” stricken out] inconveniences rendering it inadmissible.

The only remaining safeguard to the Constitution and laws of the Union, [“and” stricken out] [“both” stricken out] ag.st the encroachment of the [“anarchy of” stricken out] its members and anarchy among themselves, is that which was adopted, in the Declaration that the Constitution laws & Treaties of the U. S should be the supreme law of the Land, and as such be obligatory on the Authorities of the States as well as those of the U. S.

The last of the proposed Legislative powers was “to call forth the force of the Union ag.st any member failing to fulfil its duty under the Articles of Union”

The evident object of this provision was not to enlarge the powers of the proposed Gov.t but to secure their efficiency. It was doubtless suggested by the inefficiency of [“of” stricken out] the Confederate system, from the want of such a sanction; none such being expressed in its Articles; and if as M.r Jefferson* argued, necessarily implied, [“was” stricken out] having never [“ever” stricken out] been actually employed.

See his published letter of Aug.t 4. 1787 to Ed.d Carrington

The proposition as offered by Mr R. was in general terms. It might have been taken into Consideration, as a substitute for, or as a supplement to the ordinary mode of enforcing the laws by Civil process; or it might have been referred to cases of territorial or other controversies between States and a refusal of the defeated party to abide by the decision; leaving the alternative of a Coercive interposition by the Gov^t of the Union, or a war between its members, and within its bowels. Neither of these readings ["could be" stricken out] nor any other, which the language w^d bear, could countenance ["be a just ground for an imp" stricken out] charge on the Deputation or on Mr Randolph, of contemplating a consolidated Gov^t with unlimited powers.

The Executive powers do not cover more ground, than those inserted by the Con vention ["ground than the items enumerated by the" stricken out] than those inserted by the Convention to whose discretion, ["of" stricken out] of enumerating them the task ["was" stricken out] was submitted. The proposed association with the Executive of a Council of Revision, could not give a consolidating feature to the plan.

The Judicial power ["described" stricken out] in the plan, is more limited than the Jurisdiction described in the Const^n; with the exception of cases of "impeachment of any national officer", and questions which involve the national peace & harmony."

The trial of Impeach^ts is known to be one of the most difficult of Const^l arrangem^ts. The reference of it to the Judial Dep^t may be presumed to ["be" stricken out] have been suggested by the example in the Constitution of Virg^a. The option ["was thought" stricken out] seemed to lie between that & the other Dep^ts of the Gov^t no example of an ["y other" stricken out] organiza-

tion excluding all the Departs presenting itself. Whether the Judl mode proposed, was preferable to that inserted in the Const: or not, the differe["nce certainly does" stricken out] -rence can not affect the question of a Consolidating aspect or tendency.

By questions involving "the Natl peace and harmony", no one can suppose more was meant than might be specified, ["and" stricken out] by the Convention as proper to be referred either to the Judiciary, by the Constn or the Constl authority of the Legislature. They could be no rule, in that latitude, to a Court, nor even to a Legislature with limited powers.

That the Convention understood the entire Resolutions of Mr R to be a mere ["outlines" stricken out] sketch in which omitted details were to be supplied and the general terms and phrases to be ["reduced to referred by reduced" stricken out] reduced to their proper details, is demonstrated by the use made of them in the Convention. They were taken up & referred to a Coms of the whole in that sense; discussed one by one; referred occasionally to special Coms, to Comes of detail on special points, at length to a Come to digest & report ["a digest" stricken out] the draft of a Constn and finally to a Come of arrangement and diction.

On this review of the whole subject, candour discovers no ground for the charge, that the Resolns contemplated a Govt materially different from or more national than that in which they terminated, and certainly no ground ["none" stricken out] for the charge of consolidating views in those from whom the Resolns proceeded.

What then is the ground on which the charge rests? ["mainly it wd" stricken out] It cd not be on a plea that the ["proposed by" stricken out] plan of Mr R. gave unlimited powers to the proposed Govt for ["the" written upon "one" "obvious" plan expressly

stricken out] aimed at a specification, & of course a limitation of the ["intended" stricken out] powers.

It c^d not be on the supremacy of the general authority over the separate authorities, for that supremacy is, as already noticed, is more fully & emphatically established by the text of ["of" stricken out] the Constitution?

It c^d not be on the proposed ratification, by the people instead of the States for that is the ratification wch on wch the Const^n ["rests." stricken out] is founded.

The Charge must rest on the term "National" prefixed to the organized Dep^ts in the propositions of Mr R. yet how easy is it to acc^t for the use of the term with^t taking it in a consolidating sense?

In the 1st place. It contradistinguished the proposed Gov^t from the Confederacy ["of" stricken out] ["for wch it" stricken out] which it was to supersede.

2. As the ["new" stricken out] System was to be a new & compound one ["& there was no uncompounded" stricken out] a nondescript without a technical appellation for it, the term "National" ["as" stricken out] was very naturally ["occurr suggested by its national features by the national features as distinct from the Fed^l w^ch" stricken out] 1. in being estab^d not by the authority of State Leg^s but by the original auth^y of the people 2. in its organization into Legisl. Ex. & Jud^y Depart^s: and [3 "as in all such" stricken out] in its action on the people of the States immediately, and not on the Gov^ts of the States, as in a Confederacy.

But what alone would justify & acc^t for the application of the term National ["is that" stricken out] to the proposed Gov^t is that it w^d possess, exclusively all the ["vital powers" stricken out] ["vital relations" stricken out] attributes of a nat^l Gov^t ["in relation" stricken out] in its relations with other nations including the most essential one, ["over" stricken out] ["the power" stricken out] of regulating foreign Comerce; with the an effective means of fulfilling the oblig^s & responsib^y of the U. S. to other nations. ["Even under the Confed^y the

The States in their U. Character were considered & called a nation; altho their Treaties & transactions with foreign nations depended ["for their execution" stricken out] ^ on the will of the several States, & altho the ["regulation of foreign commerce" stricken out] ^ even remained with the States. Hence" stricken out] ^ Hence it was ["& in" stricken out] that the term nat[l] was ["so readily to" stricken out] ^ at once so readily that it applied to the new Gov[t] and ^ has become so universal & familiar. It may safely ^ be affirmed that ^ the same w[d] have been the case, whatever name might have been given to it by the prop[s] of M[r] R. ^ or by the Convention, ["or by the new found in the Const[n]" stricken out] A Gov[t] ^ which alone is known & ["ackn[d] by for" stricken out] ^ acknowledged by all foreign nations, and alone ["possessing the" stricken out] ^ charged with the international relations, could not fail to ^ be deemed & called at home, a Nat[l] Gov[t]

After all, in ["a Const[l]" stricken out] discussing ^ & expounding the character & import of ^ a Const[n] ["propositions" stricken out], let candor decide whether it be not more reasonable & ["proper" stricken out] ^ just to interpret the ["title by the plain" stricken out] ^ name or title by ["the plan" stricken out] facts on the face of it, than to make the title ["a procrustes for the to fit" stricken out] ^ torture the facts by a bed of Procrustes into a fitness to the title.

I must leave it to yourself to judge whether this exposition of the Resol[ns] in question be not sufficiently reasonable to protect them from ^ the imputation of a consolidating tendency, and still more the ^ Virg[a] Deputies from having that for their object.

With respect to M[r] R. particularly, is ["it" stricken out] ^ public not some respect due to his ["what responsible" stricken out] letter to the Speaker of y[e] H. of D. in which ["it appears he assigns" stricken out] ^ he gives for his refusal to sign the Const[n] reasons ["shewing a way of thinking on the subject" stricken out] irreconcileable with the supposition that he c[d] have proposed the Resol[ns] in a meaning charged on them? Of Col Mason who also refused, it may be inferred from his

avowed reasons that he c[d] not have acquiesced in the propositions, if understood or intended to effect a Consol. Gov.

So much use has been made of Judge Yates' minutes of debates in the Convention, that I must be allowed to remark that they abound in inaccuracies, and are not free from gross errors some of them (which do) doing much injustice to the arguments & opinions of particular members. All this may be explained (without a charge of wilful misrepresentation) by the very desultory manner in which his notes appear to have been taken (his ear catching particular expressions & losing qualifications of them); and by prejudices giving to his mind, all the bias which an honest one could feel. He & his colleague were the Representatives of the dominant party in N. York, which was opposed to the Convention & the object of it, which was averse to any essenti[mutilated] change in the Articles of Confederation, which had inflexibly refused to grant even a duty of 5 per C[t] on imports for the urgent debt of the Revolution, which was availing itself, of (the) peculiar situation of New York, for taxing the consumption of her neighbours, and which foresaw that a primary aim of the Convention w[d] be to transfer from the States to the Common authority, the entire regulation of foreign Commerce. Such were the feelings of the two Deputies, that on finding the Convention bent on [mutilated]adical reform of the Federal system, they left it in the midst of its discussions and before the opinions & views of many of the (members) were drawn out to their final shape & practical application.

Without impeaching the integrity of Luther Martin, it may be observed of him also, that his report of the proceedings of the Convention during his stay in it, shews by its colouring["s" stricken out] that his feelings were (but) too much mingled with his statements and inferences. There (is) good ground for believing that M[r] M. himself, became sensible (["of this" stricken out] and made no secret of)

["& did not conceal" stricken out] his regret, that in his address to the Legislature of his State, he had been betrayed ["into" stricken out] by the irritated state of his mind, into a picture that might do injustice both to the Body and to particular members.

[Madison Papers, vol. XI, p. 134. An enclosure. Draft.]

[James Madison] to W. C Rives

Montp[r] Oc[r] 21. —33

As the charges of M——s. are founded in the main, on "Yates debates in the federal Convention of 1787", it may be remarked without impeacting the integrity of the Reporter, that he was the representative in that Body of the party in N. York which was warmly opposed to the Convention, and to any change in the principles of the "articles of confederation"; that he was doubtless himself at the time, under all the political bias which an honest mind could feel; that he left the Convention, as the Journals shew, before the ["midway" stricken out] of the Session, and before the opinions or views of the members might have been developed into their precise & practical application; that the notes he took, are on the face of them, remarkably crude & desultory, having often the appearance of scraps & expressions as the ear hastily caught them, with a liability to omit the sequel of an observation or an argument which might qualify or explain it.

With respect to inferences from votes in the Journal of the Convention, it may be remarked, that being unaccompanied by the reasons for them, they may often have a meaning quite uncertain, and sometimes contrary to the apparent one. A proposition may be voted for, with a view to an expected qualification of it; or voted ag[st] as wrong in time or place, or as blended with other matter of objectionable import.

Although such was the imperfection of Mr Yates Notes of what passed in the Convention, it is on that authority alone that J. M. is charged with having said "that the States never possessed the essential rights of sovereignty; that these were always vested in Congress"

It must not be overlooked that this language is applied to the Condition of the States, and to that of Congress, under "the Articles of Confederation". Now can it be believed that Mr Yates did not misunderstand J. M. in making him say, that the States had then never possessed the essential rights of sovereignty" and that "these had always been vested in the Congress then existing. The charge is incredible, when it is recollected that the second of the Articles of Confederation emphatically declares "that each State retains its sovereignty freedom & independence ["&c which" stricken out] and every power &c, which is not expressly delegated to the U. S. in Congs assembled"

It is quite possible that ["J. M." stricken out] that J. M. might have remarked that certain powers ["the" stricken out] attributes of sovereignty had been vested in Congs; for that was true as to the powers of war, peace, treaties &c" But that he should have held the language ascribed to him ["by Mr Y" stricken out] in the notes of Mr Yates, is so far from being credible, that it suggests a distrust of their correctness in other cases where a strong presumptive evidence is opposed to it.

Again, J M. is made to say "that the States were only great political corporations having the power of making by-laws, and these are effectual only if they were not contradictory to the general confederation"

Without admitting the correctness of this statement in the sense it seems meant to convey, it may be observed that according to the theory of the old confederation, the laws of the States contradictory thereto would be ineffectual. That they were not so in practice is certain, and this practical inefficacy is well known to have been the primary inducement to the exchange of the old for the new system of Gov^t^ for the U. S.

Another charge ag^st^ J. M. is an "opinion that the States ought to be placed under the controul of the General Gov^t^ at least as much as they formerly were under the King & Parliament of G. B."

The British power over the Colonies, as admitted by them, consisted mainly of 1. the Royal prerogatives of war & peace, treaties coinage &c. with a veto on the Colonial laws as a guard ag^st^ laws interfering with the General law ["general law" stricken out], and with each other: 2 the parliamentary power of regulating ["the general & local" stricken out] commerce, as necessary to be lodged somewhere, and more conveniently there than elsewhere. These powers are actually vested in the Federal Gov^t^ with the difference, that for the veto power is substituted the general provision that the Constitution & laws of the U. S. shall be paramount to the Constitutions & laws of the States; and the further difference that no tax whatever should be levied by the British Parliament, even as a regulation of commerce; whereas an indefinite power of taxation is allowed to Congress, with the exception of a tax on exports, a tax the least likely to be resorted to. When it is considered that the power of taxation is the most commanded for, and the Colonies resisted by a war of seven years, and when it is considered that the British Gov^t^ ["in" stricken out] was, in every branch, irresponsible to the American

people, whilst every branch of the Federal Government is responsible ["to those is made" stricken out] to the States and the people as their Constituents, it might well occur on a general view of the subject, that in an effectual reform of the Federal system, as much power might be safely intrusted to the new Gov^t^ as was allowed to G. B. in the old one.

An early idea taken up by J. M. with a view to the security of
["An early idea with J. M. for preserving harmony and efficiency in" stricken out] a Gov^t^ for the Union, ["without and the harmony of the State Governments, without allowing to the former an allowing it" stricken out] unlimited and consolidated power, appears to have been a negative on the State laws, to be vested in the Senatorial branch of the Gov^t^; but under what modifications does not appear. This again is made a special charge against him. That he became sensible of the obstacles to such an arrangent, presented in the extent of the Country, the number of the States and the multiplicity of their laws, can not be questioned. But is it wonderful that among the early thoughts on a subject so complicated and full of difficulty, one should have been turned to a provision in the compound and on this point analogous system of which this Country had made a part; substituting for the distant, & irresponsible the independent authority of a King which had rendered justly the provision odius, an elective and responsible authority within ourselves.

It must be kept in mind that the radical defect of the old confederation lay in the power of the States to comply with or to counteract the authorisd requisitions & regulations of Congress to disregard ["the acts of Cong^s^" stricken out] that a radical cure for this fatal defect, was the essential object for which the reform was instituted; that all the friends of the reform looked for such a cure; that ["the only" stricken out] there could therefore be no question but as to the mode of effecting it. The deputies of Virg^a^ to the Convention, consisting of

G. W. Gov[r] R. &c appear to have proposed a power in Cong[s] to repeal the unconstitutional and interfering laws of the States. The proposed negative on them, as the Journals shew, produced an equal division of the ["ity of" stricken out] Votes. In every proceeding of the Convention where the question of paramountship in the laws of the Union could be involved, the necessity of it appears to have been taken for granted. The mode of controuling the legislation of the States which was finally preferred has been already noticed. Whether it be the best mode, experience is to decide. But the necessity of some adequate mode of preventing the States in their individual characters, from defeating the Constitutional authority of the States in their united character, and from collisions among themselves, had been ["was" stricken out] decided by a past experience. (It may be thought not unworthy of notice that Col. Taylor regarded the controul ["Judiciary power" stricken out] of the Fed[l] Judiciary over the State laws as more objectionable than a Legislative negative on them. See New Views &c. p. 18 . contra see M[r] Jefferson–vol. 2. p. 163)

M—s asks "If the States possessed no sovereignty, how could J. M. "demonstrate that the States retained a residuary sovereignty", and calls for a solution of the problem. He will himself solve it, by answering the question, which is most to be believed, that J M. should have been guilty of such an absurdity, or that M[r] Yates should have erred in ascribing it to him. ["subjecting him to him" stricken out] ["subjecting him to an appearance of it." stricken out]

M[r] Y. himself says "that J. M. expressed as much attachment to the rights of the States as to the trial by Jury."

By associating J. M. with M[r] Hamilton who entertained M—s peculiar opinions, ["he" stricken out] would fain infer that

J. M. concurred with those opinions. The inference would have been as good, if he had made Mr H. concur in all the opinions of J. M. That they agreed to a certain extent, as the body of the Convention manifestly did, in the expediency of an energetic Govt adequate to the exigencies of the Union, is true. But when M—s adds ["that" stricken out] "that Mr H. & Mr M. advocated a system, not only independent of the States, but which would have reduced them to the meanest municipalities", he failed to consult the recorded differences of opinion between the two individuals

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J. M.[adison] to Thos S Grimke [Madison Papers, vol. XI. p. 140. Draft.]

Montpr Jany 6. 1834

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You wish to be informed of the errors in your pamphlet alluded to in my last. The first related to the proposition of Doctor Franklin in favor of a religious service in the Federal Convention. The proposition was received & treated with the respect due to it; but the lapse of time which had preceded ["it" stricken out], with considerations growing out of it, had the effect of limiting ["the" stricken out] what was done, to a reference of the proposition to a highly respectable Committee. This issue of it may be traced in the printed Journal. The Quaker usage, never discontinued in the State & the place where the Convention held its sittings, might not have been without an influence ["on the original omission. The error into which" stricken out] as might also, the discord of religious opinions within the Convention, as well as among the Clergy of the Spot. you had fallen may have been confirmed by a communication in the National Intelligencer some years The error into which

ago, said to have been received ["from a" stricken out] through a respectable channel from a member of the Convention. That the communication was erroneous is certain; whether from misapprehension or misrecollection, uncertain.

The other error lies in the view which your note ["for the" stricken out] I,. for the 18th page, gives of Mr Pinckney's draft of a Constitution for the U. S, and its conformity to that adopted by the Convention. It appears that the Draft laid ["before" stricken out] by Mr P. before the Convention, was like some other important Documents, not among ["the" stricken out] its preserved proceedings. And you are not aware that insuperable evidence exists, that the Draft in the published Journal, could not, in a number of instances, material as well as minute, be the same with that laid before the Convention. Take ["as" stricken out] for an example of the former, the Article relating to the House of Representatives, more than any, the corner stone of the Fabric. That the election of it by the people, as proposed by the printed draft in the Journal, could not be the mode of Election proposed in the lost Draft, must be inferred from the face of the Journal itself: For on the 6th of June, but a few days after the lost Draft was presented to the Convention, Mr P. moved ["that the" stricken out] to strike the word "people" out of Mr Randolphs proposition; and to "Resolve that the members of the first branch of the national Legislature ought to be elected by the Legislatures of the several States." But there is other and most conclusive proof, that an election of the House of Representatives, by the people, could not have been the mode proposed by him. There are a number of other points in the published Draft some ["most" stricken out] conforming most literally, to the adopted Con-

stitution, which it is ascertainable, could not ["be" stricken out] have been the same in the Draft laid before the Convention. The Conformity & even identity of the Draft in the Journal, with the adopted Constitution, on points & details the result of conflicts & compromizes of opinion apparent in the Journal, have excited an embarrassing curiosity often expressed to myself or in my presence. The subject is in several respects a delicate one, and it is my wish that what is now said of it may be understood as yielded to your ["anxious request" stricken out] earnest request, and as entirely confined to yourself. I knew Mr. P. well, and was always on a footing of friendship with him. But this consideration ought not to weigh against justice to others, ["and to truth" stricken out] as well as against truth on a subject like that of the Constitution of the U. S.

The propositions of Mr. Randolph were the result of a consultation among the seven Virginia Deputies, of ["which he was" stricken out] which he, being at the time Governor of the State, was the organ. The propositions were prepared on the supposition that, considering the prominent agency of Virga. in bringg. about the Convention some initiative step might be expected from that quarter. It was meant that they should sketch a real and adequate Govt. for the ["U. S." stricken out] Union, but without committing ["any of its" stricken out] the parties agst. a freedom in discussing & deciding on any of them. The Journal shews that they were in fact the basis of the deliberations & proceedings of the Convention. ["and" stricken out] And I am persuaded that altho' not in a developed & organized form, they sufficiently contemplated it; ["and they embraced the plan" stricken out] ["they" stricken out] and moreover that they embraced a fuller ["of the essential features of" stricken out] outline of an adequate System, than ["that of Mr. Pinckney variant as" stricken the plan laid

out] before the Convention, variant as that, ascertainably, ["was" stricken out] must have been from the Draft ["printed now" stricken out] now in print.

Memor. No provision in the Draft of Mr P. printed in the Journal for the mode of Electing the President of U. S.

APPENDIX.

"Resolved, That Edmund Randolph, James Madison, Jr. Walter Jones, St. George Tucker and Meriwether Smith, Esquires, be appointed Commissioners, who, any three of whom, shall meet such Commissioners as may be appointed in the other States in the Union, at a time & place to be agreed on, to take into consideration the trade of the United States; to examine the relative situations and trade of the said States; to consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony; and to report to the several States, such an act relative to this great object, as when unanimously ratified by them, will enable the United States in Congress, effectually to provide for the same."

[Madison Papers, vol. XII, p. 80. Copy. See Doc. Hist., IV, 5.]

G° Washington to Jabez Bowen Esqr.

Mount Vernon Jany 9. 1789

[Washington Papers, Letter-book 9, p. 71. Transcript. The true date is 1787.]

I have received your letter of the 23d of Novr. I should have been happy to have seen you at Mount Vernon agreeable to your intention had you proceeded as far as Annapolis. The Convention at that place would undoubtedly have been productive of some benefit to the Union had it taken place, but the tardiness of the Commissioners from several States

rendered abortive every advantage that was expected from it. It is surprising to me that a due punctuality cannot be observed in meetings of this nature, the time is fixed and known, and every Gentleman when he accepts the appointment should consider the business of the meeting as depending upon him, and should determine not to retard its proceedings by a want of punctuality in his Attendance; it is a public duty to which every private consideration should give way.—

I have been long since fully convinced of the necessaty of Granting to Congress more ample and extensive powers than they at present possess; the want of power an energy in that Body has been severely felt in every part of the United States. The disturbances in new England,—The declining state of our Commerce—and the general languor which seems to pervade the Union are in a great measure (if not entirely) owing to the want of proper Authority in the supreme Council. The extreeme jealousy that is observed in vesting Congress with adequate powers has a tendency rather to distroy than confim our liberty's the wisest resolutions cannot produce any good unless they are supported with energy—they are only applauded, but never followed.

Paper money has had the effect in your State that it ever will have, to ruin commerce—oppress the honest, and open a door to every species of fraud and injustice.—

I am entirely in sentiment with you Sir, of the necessity there is to adopt some measures for the support of our national peace & honor: the present situation of our public affairs demands the exertion and influence of every good

and honest Citizen in the Union, to tranquilize disturbances, retrieve our Credit and place us upon a respectable footing with other Nations.

* * * * * * *

Sentiments of Mr Jay—Genl Knox and Mr Madison on a form of Governmt previous to the General Convention held at Philadelphia in May 1787 [Indorsement.]

Mr Jay.

[Washington Papers, Miscellaneous Ex. C 1. (The first paper in this volume is indorsed *No. 1. Vol. 2*). In Washington's handwriting.]

Does not think the giving any futher powers to Congress will answer our purposes.—for among reasons,

Because the members (some of) have (will) partial, & personal purposes in view; which, and ignorance prejudice and interested views of others will always embarrass those who are well disposed

Because Secresy and dispatch will be too uncommon—and foreign as well as local interest will frequently oppose, and sometimes (frustrate) the wisest measures.—

Because large assemblies often misunderstand, or neglect the obligations of character, honor & dignity; and will collectively do, or omit things which an Individual Gentleman in his private capacity would not approve—reasons—&ca

The Executive business of Sovereignty depending on so many Wills, and those Wills moved by such a variety of contradictory motives & inducements will in general be but feebly done—and

Such a sovereign, however theoritically responsible cannot be effectually so in its departments & officers, without adequate Judicatories.—

He therefore

Does not promise himself any thing very desirable from any change which does not divide the Sovereignty into its proper departments——Let Congress Legislate—let others execute—Let others judge.— Proposes—

A Govr Genl limited in his prerogatives and duration.—That Congress should be divided into an upper & lower house.— The former appointed for life—The latter annually—That the Govr General (to preserve the Ball^{s}) with the advice of a Council formed, for that only purpose of the great judicial officers, have a negative on their acts

What powers should be granted to the Government so constituted is a question which deserves much thought—the more however, he thinks the better—The States retaining only so much as may be necessary for domestic purposes—and all their principal officers Civil and Military being commissioned and removal by the National Government

Questions the policy of the Convention because it ought to have originated with, & the proceedings be confirmed by the People—the only source of just authority

General Knox.

It is out of all question that the foundation of the Government must be of republican principles—but so modified & wrought together that whatever shall be erected thereon should be durable & efficient—He speaks entirely of the federal government—or what would be better—one government instead of an association of Governments

Were it possible to effect, a governm[t] of this kind—It might constituted of an assembly or lower house chosen for one, 2 or three years—A Senate chosen for 5, six or seven years—And the Executive under the title of Governor General, chosen by the Assembly & Senate for the term of seven years but liable to an impeachment of the lower house and triable by the Senate

A judicial to be appointed by the Governor General during good behaviour, but impeachable by the lower house and triable by the Senate

The Laws passed by the General Government to be obeyed by the local governments and if necessary to be enforced by a body of armed men.

All National objects to be designed and executed by the gen[l] Government without any reference to the local governments

This is considered as a government of the least possible powers to preserve the Confederated government—To attempt to establish less will be to hazard the existence of republicanism, and to subject us either to a division of the European powers or to a despotism arising from high handed Commotions

M[r] Madison.

Thinks an individual independence of the States utterly irreconcilable with their aggregate sovereignty.—and that a consolidation of the whole into one simple Republic would be as inexpedient as it is unattainable—He therefore proposes a middle ground, which may at once support a due supremacy of the national authority, & not exclude the local authorities whenever they can be subordinately useful.—

As the ground work, he proposes that a change be made

in the principle of Representation—and thinks there would be no great difficulty in effecting it.—

Next, that in addition to the present federal powers the National governm^{t} should be armed with positive & compleat authority in all cases which require uniformity;—such as the regulation of trade, including the right of taxing both exports & imports, the fixing the terms & forms of naturalization &c^{a} &c^{a}—

Over and above this positive power, a negative in all cases whatever on the legislative acts of the States, as heretofore exercised by the Kingly ["authority" stricken out] prerogative appears to him absolutely necessary, & to be the least possible encroachment on the State Jurisdictions—without this defensive power he conceives that every positive which can be given on Paper will be evaded.—Reasons, see them—

This controul over the Laws, would prevent the internal viscissitudes of State policy and the aggressions of interested Majorities

The national supremacy ought also to be extended he thinks to the judiciary departments—the oaths of the judges should, at least, include a fidelity to the General as well as local constitution—and that an appeal should be to some national tribunals in all cases to which foreigners or Inhabitants of other States may be parties.—The Admiralty jurisdictions to fall entirely within the purview of the Nat^{l} governm^{t}

The National supremacy in the Executive departments is liable to some difficulty, unless the officers administering them could be made appointable by the supreme Government.—The Militia ought entirely to be placed in some form

or other under the authority which is interested with the general protection and defence.—

A government composed of such extensive powers should be well organized and ballanced.—

The Legislative department might be divided into two branches, one of them chosen every years by the People at large, or by the Legislatures; the other to consist of fewer members, to hold their places for a longer term, and to go out in such a rotation as always to leave in office a large majority of old members.—

Perhaps the Negative on the Laws might be most conveniently exercised by this branch.—

As a further check a Council of Revision including the great Ministerial officers might be superadded.

A National Executive must also be provided.—He has scarcely ventured as yet to form his own opinion either of the manner in which it ought to be constituted, or of the authorities with which it ought to be cloathed.

An article should be inserted expressly guarantying the tranquility of the States against internal as well as external dangers.

In like manner the right of Coercion should be expressly declared, with the resources of Commerce in hand, the national administration might always find means of exerting it either by Sea or land; But the difficulty and awkwardness of operating by force on the collective will of a State, render it particularly desireable that the necessity of it might be precluded—Perhaps the Negative on the Laws might create such a mutuality of dependance between the General & particular authorities, as to answer—or per-

haps some defined objects of taxation might be submitted along with Commerce to the gen[l] authority

To give a new system its proper validity and energy a Ratification must be obtained from the people and not merely from the ordinary authority of the Legislatures.— This will be the more essential as inroads on the existing Constitutions of the States will be unavoidable.—

[Madison Papers, vol. XII, p. 57. See Doc. Hist. III 796*m*.]

*for page 16

However practicable & exped[t] such a negative [" might" stricken out] in the ["general" stricken out] Gov[t] of a State on the law making power of Corporations, not sufficiently controuled by the general law of the State, from evasions ["and" stricken out] or violations of its auth[y] ["or from" stricken out] judicially executed before they could be redressed, ["it was justly decided that a like controul on the Legisl[n] of over" stricken out] apart from it other objections ["was im" stricken out] not practicable among so many States ["extending over so over an ex" stricken out] encreasing in number and enacting each of them so many laws. Instead of the proposed negative, ["it was left the remedy ag[st] of unconstitutional to the Const[l] authy of the gen[l] gov[t] was left to the Jud[l] Dep[t] of the latter, and the" stricken out] ["appellate authy" stricken out] ["controuling" stricken out] the objects of it were left as finally provided for in the Constitution.

[Madison Papers, vol. XII, p. 51. A continuation of Doc. Hist., III, 796*o*.]

in the extent & form, preserved in my own hand, on my files.

In the labour & correctness of doing this, I was not a little aided by practice & by a familiarity with the style and the train of observation & reasoning which characterized the principal speakers. It happened also that I was not absent a single day, nor more than a cassual fraction of an hour in any day, so,

that I could not have lost a single speech, unless a very short one. > insert the Remark on the incl slip of paper marked ☞ A

Of the ability & intelligence of those who composed the Convention, the debates & proceedings may be a test; as the character of the work which was the ofspring result of their deliberations must be tested by the experience of the future added to that of the nearly half century, which has passed.

But whatever may be the Judgment pronounced on the competency of the architects of the constitution, or whatever may be the destiny, of the edifice prepared by them, I feel it a duty to express my profound, & solemn conviction derived from my intimate opportunity of observing & appreciating, the views of the Convention, collectively & individually, that there never was an assembly of men, charged with a great & arduous trust, who ["could be" stricken out] were more pure, in their motives or more exclusively, or anxiously

1. Resolved, that the Articles of the Confederation ought to be so corrected and enlarged, as to accomplish the objects proposed by their institution, namely, common Defence, security of Liberty, and general Welfare.—

[Brearley Papers. In Brearley's handwriting. Doc. Hist., I, 332 is a copy. Cf. III, 17, and infra, p. 413.]

2. Resolved, therefore that the rights of suffrage in the National Legislature ought to be proportioned to the quota's of contribution, or to the number of free inhabitants, as the one or the other may seem best, in different cases.

3. Resolved, that the National Legislature ought to consist of two branches.

4. Resolved, that the members of the first branch of the Nat[l] Leg[e] ought to be elected by the people of the several

States, every for the Term of three years.—to be of the age of —— years at least. To receive liberal stipends, by which they may be compensated for the devotion of their time to public service—to be in-eligible to any office established by a particular State, or under the Authority of the U. S. (except those peculiarly belonging to the functions of the first branch) during the term of service and for the space of one after its expiration; to be incapable of re-election for the space of after the expiration of their term of service: and to be subject to recal.

5. Resolved, that the members of the 2d branch of the National Legislature ought to be elected ["by those of the first, out of a proper number of persons nominated" stricken out] by the individual Legislatures; to be of the age of years, at least; to hold their Offices for a term sufficient to ensure their independancy; to receive liberal stipends by which they may be compensated for the devotion of their time to the public service; and to be in-eligible to any Office established by a particular State or under the authority of the U. S. (except those peculiarly belonging to the functions of the second branch) during the term of service and for the space of after the expiration thereof.

6. Resolved, that each branch ought to possess the right of originating Acts; that the Natl Legr ought to be empowered to enjoy the Legislative right vested in Congress by the Confederation, and moreover to Legislate in all cases to which the separate States are incompetent; or in which the harmony of the U. S. may be interrupted by the exercise of individual legislation—to negative all laws passed by the several States, contravening, in the Opinion of the Natl Legr

the Articles of union, or any Treaty subsisting under the Authority of the Union;—and to call forth the force of the Union against any member of the Union, failing to fulfil["1" stricken out] its duty under the articles thereof.

7 Resolved, that a National Executive be instituted,* to be chosen by the Nat! Leg^e^ for the term of seven years,——to receive punctually at stated times a fixed compensation for the services rendered, in which no increase or diminution shall be made so as to affect the Magistracy existing at the time of ["the" stricken out] such increase or diminution;—— and to be in-eligible a second time; ["and that, besides a general authority to execute the national laws, it ought to enjoy the executive rights vested in Congress by the Confederation." stricken out]

* to consist of a single Person with Powers to carry into execution the Nat–Laws, and to appoint to offices, in cases not otherwise provided for,

8. Resolved, that the executive and a convenient number of the national judiciary ought to compose a Council of revision, with authority to examine every Act of the National legislature, before it shall operate, and every Act of a particular legislature before a negative thereon shall be final; and that the dissent of the said Council shall amount to a rejection, unless the act of the National Legislature be again passed, or that of a particular legislature be again negatived by of the members of each branch.

9. Resolved, that a National Judiciary be established to consist of one ["or more" stricken out] supreme Tribunal["s" stricken out], ["and of inferior tribunals; to be chosen by the Nat! Legislature" stricken out]; to hold their offices during good behavior, and to receive punctually at stated times fixed compensation for their services, in which no increase or diminution shall be made so as to affect the

persons actually in office at the time of such increase or diminution.—That the jurisdiction of the Inferior tribunals shall be to hear and determine in the first instance, and of the supreme tribunal to hear & determine in the dernier resort,

> all piricies and feloniès on the high seas; captures from an Enemy; cases in which foreigners, or Citizens of other States, applying to such jurisdictions, may be interested, or which respect the collection of the National Revenue; impeachments of any national officer, and questions which involve the national peace or harmony.

10. Resolved, that provision ought to be made for the admission of States, lawfully arising within the limits of the U. S. whether from a voluntary junction of government and territory or otherwise, with the consent of a number of voices in the national Legislatures less than the whole.

agreed

11. Resolved, that a Republican government ["and the territory" stricken out] of each State (except in the instance of a voluntary junction of government and territory) ought to be garranteed by the U. S. to each State.

["Post⁴" stricken out]
Agreed

12. Resolved, that provision ought to be made for the continuance of a Congress and their authorities and privileges until a given day, after the reform of the Articles of Union shall be adopted, and for the completion of all their engagements.

Agreed

13. That provision ought to be made for the amendment of the Articles of union, whensoever it shall seem necessary; (and that the Assent of the National Legislature ought not to be required thereto.)

["Postponed" stricken out]
Agreed

(Post⁵)

14. Resolved, that the Legislative, Executive, and Judiciary powers ∧ [of the "within" stricken out] the several States ought to be bound by oath to support the Articles of Union. ["Postponed" stricken out] Agreed

15. Resolved, that the Amendments, which shall be offered to the Confederation, by the Convention, ought at a proper time or times after the approbation of Congress, to be submitted to an Assembly or Assemblies of representatives, recommended by the several Legislatures, to be expressly chosen by the people to consider and decide thereon. Postponed

[INDORSEMENT.]

Convention of the States—1787. Resolutions–preparatory to the formation of the Constitution—recommended Sep[r] 17. 1787.

D.

Copy of the original plan for a new Government as given into Convention by the State of Virginia [Washington Papers, Miscellaneous Ex. C 1. In Washington's handwriting. See ante, page 409, marginal note.]

1 Resolved, that the articles of the Confederation ought to be so corrected and enlarged, as to accomplish the objects proposed by their institution; namely "common defence, "security of liberty & general welfare"

2 Resolved therefore, that the rights of suffrage in the National legislature ought to be proportioned to the quotas of contribution, or to the number of free Inhabitants, as the one or the other rule may seem best in different cases.

3 Resolved that the National legislature ought to consist of two branches

4 Resolved that the members of the first branch of the National legislature ought

To be elected by the people of the several States every for the term of

To be of the age of years at least

To receive liberal stipends, by which they may be compensated for the devotition of their time to public service.

To be ineligable to any office established by a particular State, or under the authority of the United States (except those peculiarly belonging to the functions of the first branch) during the term of Service and for the space of years after its expiration.

To be incapable of reelection for the space of years after the expiration of their term of service.—and

To be subject to recall.

5. Resolved that the members of the second branch of the National legislature ought to be elected by those of the first;

Out of a proper number of persons, nominated by the individual legislatures

To be of the age of years at least.

To hold their offices for a term sufficient to insure their independency

To receive liberal stipends, by which they may be compensated for the devotion of their time to public service.—and

To be ineligable to any office established by a particular State or under the authority of the United States (except those peculiarly belonging to the functions of the second branch) during the term of service, and for the space of after the expiration thereof.

6 Resolved that each branch ought to possess the right of originating acts—That

The National legislature ought to be empowered

To enjoy the legislative powers invested in Congress by the confederation; & moreover

To legislate in all cases, to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation.

To negative all laws, passed by the several States, contravening, in the opinion of the National legislature the articles of Union—and

To call forth the force of the Union against any member of the Union, failing to fulfil its duty under the articles thereof.

7. Resolved that a National executive be instituted; to be chosen by the National legislature for the term of years

To receive punctually, at stated times a fixed compensation for the services rendered; in which no increase or diminution shall be made so as to affect the Magistracy existing at the time of increase or diminution—and

To be ineligable a second time: and that besides a general authority to execute the National laws, it ought to enjoy the executive rights vested in Congress by the Confederation.

8. Resolved that the Executive and a convenient number of the National Judiciary ought to compose a Council of Revision; with authority to examine every Act of the National legislature, before it shall operate, and every act of a particular legislature, before a negative thereon shall be

final. And that the dissent of the said Council shall amᵗ to a rejection, unless the act of the National legislature be again passed, or that of a particular legislature be again negatived by of the members of each branch

9. Resolved that a National Judiciary be established;

To consist of one or more supreme tribunals; and of inferior tribunals.

To be chosen by the National Legislature;

To hold their Offices during good behaviour—&

To receive punctually at stated times a fixed compensation for their services; in which no increase or diminution shall be made, so as to affect the persons actually in Office at the time of such increase or diminution

That the jurisdiction of the inferior tribunals shall be to hear and determine in the first instance, and of the supreme tribunal to hear and determine in the dernier resort

All piracies and felonies on the high Seas.

Captures from an enemy.

Cases in which foreigners, or Citizens of other States, applying to such jurisdictions may be interested—or which respect the Collection of the National Revenue

Impeachments of any National Officers—and

Questions, which involve the National peace or harmony.

10 Resolved that provision ought to be made, for the admission of States, lawfully arising within the limits of the United States whether from a Voluntary junction of government & territory or otherwise with the consent of a number of voices in the National legislature less than the whole.

11. Resolved that a Republican government, and the terri-

tory of each State (except in the instance of a voluntary junction of territory) ought to be guarranteed by the United States to each other.

12. Resolved, that provision ought to be made for the continuance of a Congress and their authorities & priviledges untill a given day, after the reform of the Articles of Union shall be adopted, and for the completion of all their engagements.

13. Resolved, that provision ought to be made for the amendment of the Articles of Union, whensoever it shall seem necessary, and that the assent of the National legislature, and that the assent of the National legislature ought not to be required thereto

14. Resolved, that the Legislative, Executive, and Judiciary powers, within the several States ought to be bound by oath, to support the articles of Union.—

15. Resolved, that the amendments, which shall be offered to the Confederation by the Convention ought at a proper time, or times after the approbation of Congress, to be submitted to an Assembly or Assemblies of Representatives, recommended by the several Legislatures to be expressly chosen by the people to consider & decide thereon.—

[INDORSEMENT.]

Copy of the propositions offered to the Conven^{n} by Virginia

* The length of the Document laid before the Convention, and other circumstances having prevented the taking of a copy at the time, that which is here inserted (inserted in the debates) was taken

[Madison Papers, vol. XII, p. 60. See Doc. Hist., I, 309 and III, 14.]

* ["See on the files a letter from Mr Pinckney to J. M. of Mar. 28–1789 which is absolutely conclusive" stricken out]

[See supra, p. 168.]

from the paper furnished to the Secretary of State, and contained in the Journal of the Convention published in 1819. On comparing the paper with the Constitution in its final form, or in some of its Stages; and with the propositions, and speeches of Mr Pinckney in the Convention, it would seem that considerable errour must have crept into the paper; occasioned ["probably" stricken out] by the loss of the Document laid before the Convention, (neither that nor the Resolutions offered by Mr Patterson being among the preserved papers) and by a consequent resort for a copy to the rough draught, in which erasures and interlineations following what passed in the Convention, might be confounded with the original text, and after a lapse of more than thirty years, confounded also in the memory of the Author.

There is in the paper a similarity in some cases, and an identity in others, with details, expressions, and definitions, the results of critical discussions and ["compromising" stricken out] modifications that can not be ascribed to accident or anticipation.

Examples may be noticed in Article VIII of the paper; which is remarkable also for the circumstance, that whilst it specifies the functions of the President, no provision is contained for the election of such an officer, nor indeed for the appointment of any Executive Magistracy: notwithstanding the evident purpose of the Author to provide an entire plan of a Federal Government.

Again, in several instances where the paper corresponds with the Constitution, it is at variance with the ideas of Mr Pinckney, as decidedly expressed in his propositions,

["that" stricken out] several instances between that and the Constitution as adopted, having attracted the notice of others was at length suggested to mine.

and in his arguments, the former in the Journal of the Convention, the latter in the report of its debates: Thus in Art: VIII of the paper, provision is made for removing the President by impeachment; when it appears that in the Convention, July 20. he was opposed to any impeachability of the Executive Magistrate: In Art: III, it is required that all money-bills shall originate in the first Branch of the Legislature; which he strenuously opposed Aug: 8 and again Aug: 11: In Art: V members of each House are made ineligible to, as well as incapable of holding, any office under the Union &c, as was the case at one Stage of the Constitution; a disqualification highly disapproved and opposed by him Aug: 14.

A still more conclusive evidence of errour in the paper is seen in Art: III, which provides, as the Constitution does, that the first Branch of the Legislature shall be chosen by the people of the several States; whilst it appears, that on the 6th of June, according to previous notice too, a few days only, after the Draft was laid before the Convention, its Author opposed that mode of choice, urging & proposing in place of it, an election by the Legislatures of the several States.

The remarks here made, tho' not material in themselves, were due to the authenticity and accuracy aimed at, in this Record of the proceedings of a Publick Body, so much an object, sometimes, of curious research, as at all times, of profound interest

As an Editorial note to the paper in the hand writing of Mr M. beginning "The length &c–" [Madison Papers, vol. XII, p 60 See ante, page 417.]

*Striking discrepancies will be found on a comparison of his plan, as furnished to Mr Adams, and the view given of

that which was laid before the Convention, in a pamphlet published by Francis Childs at New York shortly after the close of the Convention. The title of the pamphlet is "Observations on the plan of Government submitted to the Federal Convention on the 28th of May 1787 by Charles Pinckney &c.[a]"*

But what ["must be regarded as absolutely decisive on the point" stricken out] is a letter from M[r] Pinkney to ["M[r] Madison" stricken out] of March 28. 1789, now on his files, ["from which" stricken out] The following is an extract—"Are you not, to use a full expression, abundantly convinced that the theoretical nonsense of an election of the members of Congress by the people in the first instance, is clearly and practically wrong.—that it will in the end be the means of bringing our Councils into contempt and that the Legislatures are the only proper judges of who ought to be elected."— —

[Indorsement.] Observations on Mr. Pinkney's plan &c. &c

[Madison Papers, vol. XII, p. 55.]

In the plan of M[r] Pinkney as presented to M[r] Adams & published in the Journal of the Convention.	The plan according to his comments in the pamphlet printed by Francis Childs in New York.
The House of Representatives to be chosen ["by the people; with details similar to the 2[d] section 1. article of the Constitution of the U. S." stricken out]	No provision for ["constituting" stricken out] the House of Representatives.

*See "Select Tracts" vol. 2. in the library of the Historical Society of New York. Editor.

No council of Revision.	A Council of Revision consisting of the Executive and principal officers of government. "This, I consider as an improvement in legislation, and have therefore incorporated it as a part of the system."
The President to be ["appointed" stricken out] elected for years—	The Executive to be appointed septennially
not in the plan.	—"have a right to convene and prorogue the Legislature upon special occasions, when they cannot agree as to the time of their adjournment;
"and, except as to Ambassadors, other Ministers, and Judges of the Supreme Court, he shall nominate, and with the consent of the Senate, appoint all other officers of the U. S."	and appoint all officers except Judges and Foreign Ministers."
The 7th article gives the Senate the exclusive power to regulate the manner of deciding all disputes and controversies now subsisting, or which may arise, between the States, respecting jurisdiction or territory:	"The 9th article respecting the appointment of Federal Courts for deciding territorial controversies between different States, is the same with that in the Confederation; but this may with propriety be left to the Supreme Judicial."

Article 6th "all laws regulating commerce shall require the assent of two thirds of the members present in each House."

"In all those important questions where the present Confederation has made the assent of nine States necessary, I have made the assent of ["both" stricken out] $\frac{2}{3}^{ds}$ of both Houses, when assembled in Congress, and added to the number the regulation of trade and acts for levying an Impost and raising a revenue".

The 14th article gives the Legislature power to admit new States into the Union on the same terms with the original States—nothing further

"I have also added an article authorising the United States, upon petition from the majority of the Citizens of any State, or Convention authorised for that purpose, and of the Legislature of the State to which they wish to be annexed, or of the States among which they are willing to be divided, to consent to such junction or division, on the terms mentioned in the article".

by ⅔ of both Houses.

["other" stricken out]

["A number of important articles are referred to in the pamphlet & not found in the plan—for example "the provision respecting the attendance of the members of both Houses; the penalties under which their attendance is required, are such as to insure it, as we are to suppose no

man would willingly expose himself to the ignominy of a disqualification ["(pa 25) providing for the writ of Habeas Corpus & trial by Jury in Civil cases (page 26)" stricken out] - "to secure to authors the exclusive right to their performances and discoveries" page 26.

So also In the plan presented the powers of the Senate are given in Article 7th ["The mode of appointment on the rotative principles each mode of appointment class for 4 years," stricken out] tho' the mode of appointment of that body it is silent ["but not enumerated" stricken out] The latter is given in the pamphlet but its powers are not enumerated. The restriction on members of both Houses from holding any office under the union is not adverted to in the pamphlet—nor the power of the Legislature to appoint a Treasurer, to establish post and military roads &c." stricken out]

Plan.	Pamphlet.
no such provision.	page 25. "a provision respecting the attendance of the members of both Houses; the penalties under which their attendance is required, are such as to insure it, as we are to suppose no man would willingly expose himself to the ignominy of a disqualification".
"All criminal offences (except in cases of impeachment) shall be tried in the State where they shall be committed. The trials shall be open & public, & be by Jury."	Trial by Jury is provided for "in all cases, criminal as well as Civil".
silent.	"to secure to authors the exclusive right to their performances and discoveries".

Powers of the Senate enumerated Article 7th viz.t "to declare war, make treaties, & appoint ambassadors and Judges of the Supreme Court.	silent.
[""The members of each House shall not be eligible to, or capable of holding any office under the union, during the time for which they have been respectively elected, nor the members of the Senate for one year after"." stricken out]	["silent." stricken out]
["The Legislature "to appoint a Treasurer by ballot."" stricken out]	["silent—" stricken out]
[""to establish post & military roads"" stricken out]	["silent—" stricken out]
[""The members of each House shall be paid for their services by the States which they represent"." stricken out]	["silent." stricken out]
"Every bill, which shall have passed the Legislature, shall be presented to the President for his revision; if he approves it he shall sign it; but if he does not approve it, he shall	The Executive "is not a branch of the Legislature, farther than as a part of the Council of Revision".

return it with his objections &ª &ª— ———

The Legislature shall have power

To subdue a rebellion in any state, on application of its Legislature;

To provide such dockyards & arsenals, and erect such fortifications as may be necessary for the U. S. and to exercise exclusive jurisdiction therein;

["To appoint a Treasurer by ballot;" stricken out]

To establish post & military roads;

To declare the law & punishment of counterfeiting coin, ["& of all offences against the laws of nations;" stricken out]

To declare the punishment of treason, which shall consist only in levying war against the U. S., or any of them, or in adhering to their enemies. No person shall be convicted of treason but by the testimony of two witnesses.

These and other important powers and

The prohibition of any tax on exports — — are unnoticed in his remarks.

There is no numerical correspondence ["in" stricken out] between the articles ["of" stricken out] contained in the plan & those ["commented" stricken out] treated of in the pamphlet & ["t" written upon "T"]he latter alludes to several more than are included in the former.

In Mr Pinkney's letter to Mr Adams, accompanying ["his draft" stricken out] his plan, he states that ["he had early" stricken out] "very soon after the Convention met, I changed and avowed candidly the change of my opinion on giving the power to Congress to revise the State laws in certain cases, and in giving the exclusive power to the Senate to declare war, thinking it safer to refuse the first altogether, and to vest the latter in Congress."

In his pamphlet he concludes the 5th page of his argument in favor of the first power with these remarks—"In short, from their example, (other republics) and from our own experience, there can be no truth more evident than this, that, unless our Government is consolidated, as far as is practicable, by retrenching the State authorities, and concentering as much force & vigor in the Union, as are adequate to its exigencies, we shall soon be a divided, and consequently an unhappy people. I shall ever consider the revision and negative of the State laws, as one great and leading step to this reform, and have therefore conceived it proper to bring it into view."

On the 23. August He moved a proposition to vest this power in the Legislature, ["on the 23. August" stricken out] provided ⅔ of each House assented.

["He makes no remark on the" stricken out] He does not designate the depository of the power to declare war ["by any remark" stricken out] & consequently avows no change of opinion on that subject in the pamphlet, altho' it was printed after the adjournment of the Convention and is stated to embrace the "observations he delivered at different times in the course of their discussions"

J. M. has a copy of the pamphlet much mutilated by dampness; but one in complete preservation is bound up with "Select Tracts Vol. 2." belonging to the New York Historical Society, numbered 2687.

Title ["of" stricken out]

Observations on the plan of Government submitted to the Federal Convention, in Philadelphia, on the 28th of May 1787, By Mr Charles Pinkney, Delegate from the State of South Carolina—delivered at different times in the course of their discussions—

New York:—Printed by Francis Childs.

In the plan ["Plan" stricken out] of Mr Pinkney as presented to Mr Adams and published in Journal	Plan as commented on in Pamphlet [Madison Papers, vol. XII, p. 66.]
Article 1. Style—	Not adverted to
Article 2. Division of Legislative power in two Houses.	recommended as essential page 8.
Article 3. Members of H. of D. to be chosen by the people & a	silent.
Article 4. Senate to be elected by the H. of Del. &c. . .	recommended page 9. but the 4th article relates to extend-

ing rights of citizens of each State throughout U S. the delivery of fugitives from justice, on demand, & the giving faith & credit to records & proceedings of each—vide Art. 12 & 13.

Article 5—relates to the mode of electing the H. of Del. by the people & rules &ª. Every bill to be presented to the President for his revision.

This article declares that Individual states shall not exercise certain powers, founded on the principles of the 6th of the Confederation. A Council of revision is stated to be incorporated in his plan page 9. vide Art 11. for prohibitions—empowers Congress to raise troops; & to levy taxes according to number of whites & 3/5 of other descriptions.

Article 6. powers of the Legislature enumerated & all constitutional acts thereof, and treaties declared to be the supreme law & the judges bound thereby.

This article is stated to be an important alteration in the fedl system, giving to Congress not only a revision but a negative on the State laws. The States to retain only local legislation limited to concerns ["only" stricken out] ["each" stricken out] affecting each only. vide Art. 11th

Article 8. like same in Confed. & gives power to exact

Article ["8" written upon "7"]. The Executive power—H. E. President U. S. for——years & re-eligible—To give information to the Legislature of the state of the Union & recommend measures to their consideration—To take care that the laws be executed—To commission all officers of the U. S. and except ministers & Judges of Sup. Court, nominate & with consent of Senate appoint all other officers—to receive ministers & may correspond with Ex. of different States. To grant pardon except in impeachments. To be commander in chief—to receive a fixed compensation—to take an oath—removable on impeachment by H. of D. and conviction in Supreme Court of bribery or corruption. The President of Senate to act as Pres[t] in case of postage for expense of office & for revenue.

Page 9. The Executive should be appointed septennially, but his eligibility should not be limited—Not a branch of the Legislature further than as part of the Council of revision—His duties to attend to the execution of the acts of Congress, by the several States; to correspond with them on the subject; to prepare and digest, in concert with the great departments, business that will come before the Legislature. To acquire a perfect knowledge of the situation of the Union, and to be charged wth the business of the Home Dept[mt]—To inspect the Departments. To consider their Heads as a Cabinet Council & to require their advice. To be Commander in Chief—to convene the legislature on special occasions & to appoint all officers but Judges & Foreign ministers—removable by impeachment—salary to be fixed

* misplaced

death &ª and the Speaker of H. of D. in case of death of Pres. of Senate—

permanently by the Legislature.

* Article ["7" written upon "8"]. Senate alone to declare war– make treaties & appoint ministers & Judges of Sup. Court—To regulate the manner of deciding disputes now subsisting, or which may arise, between States respecting jurisdiction or territory—

The 7th article invests the U. S. with the compleat power of regulating trade & levying imposts & duties. (The regulation of commerce is given in the powers enumerated article 6th of plan.)

Article 9. gives the legislature power to establish Courts of law, equity & admiralty & relates to the ["ir appointment organization." stricken out] tenure & compensation of judges—one to be the Supreme Court—its jurisdiction over all cases under the laws of U. S. or affecting Ambassadors &c, to the trial of impeachment of officers of U. S.; cases of admiralty & maritime jurisdiction—cases where original & where appellate—

The 9th article respecting the appointment of Federal Courts, for deciding controversies between different States, is the same with the Confederation; but this may with propriety be left to the Supreme Judicial (Article 7th of the plan gives the power to the Senate of regulating the manner of decision)

Article 10. after first census the H. of D– shall appor-

The 10th article gives Congress a right to institute such

tion the Senate by electing one Senator for every for every —— members each State shall have in H. of D– each State to have at least one member.

offices as are necessary; of erecting a Federal Judicial Court; and of appointing Courts of Admiralty.

page 19. The exclusive right of coining money &c^{a} is essential to assuring the federal funds—&^{a}

page 20. In all important questions where the Confederation made the assent of 9 States necessary I have made ⅔ of both Houses—and have added to them the regulation of trade and acts for levying Impost & raising revenue—

page 20. The exclusive right of making regulations for the government of the Militia ought to be vested in the Federal Councils &^{a}

page 22. The article empowering the U. S. to admit new States indispensable—vide Article 14.

see article 6th

["Not in the plan" stricken out]——

To establish uniform rules of naturalization in Article 6.

page 23. The Fed. Gov^{t} should possess the exclusive right of declaring on what terms the privileges of citizenship

	& naturalization should be extended to foreigners—
Article 16. provides the same by ⅔— —	page 23. Article 16. provides that alterations may be made by [“⅔” stricken out] a given number of the Legislature—
Nothing of it————————	page 25. There is also in the articles, a provision respecting the attendance of members of both Houses — the penalties under which their attendance is required are such as to insure it &ca
It is provided in Art. 9. that “All criminal offenses (except in cases of impeachment) shall be tried in the State where committed. The trials shall be open & public, and be by Jury.” nothing as to the rest—	page 26. The next article provides for the privilege of the writ of Habeas Corpus— the trial by Jury in all cases, criminal as well as civil—the freedom of the press, and the prevention of religious tests as qualifications for offices of trust &a
Article 6. provides for a seat of Govt & a National University thereat — but no protection for authors is provided—	page 26. There is also an authority to the National legislature, permanently to fix the seat of the Genl Govt, to secure to authors the exclusive right to their performances & discoveries & to establish a federal university.
Not in the plan— ———	There are other articles of subordinate consideration.

Propositions from the Delegates of New Jersey to the Convention [Washington Papers, Miscellaneous Ex. C 1. In Washington's handwriting.]

1 Resolved, that the articles of Confederation ought to be so revised corrected & enlarged as to render the fœderal constitution adequate to the Exigencies of Government & the preservation of the Union

2. Resolved that in addition to the powers vested in the United States in Congress by the present existing articles of Confederation they be authorized to pass acts for raising a Revenue, by laying a duty or duties on all goods & merchandize of foreign growth or manufacture imported into any part of the United States—by stamps on paper, vellum & parchment, and by a postage on all letters and packages passing through the General Post office to be applied to such fœderal purposes as they shall deem proper and expedient—To make rules & regulations for the collection thereof & the same from time to time to alter & amend in such manner as they shall think proper—To pass acts for the regulation of Trade & commerce as well with foreign nations as with each other, provided that all punishments, fines, forfeitures & penalties to be incurred for contravening such acts, Rules & regulations shall be adjudged by the common law Judiciaries of the State in which any offence contrary to the true intent & meaning of such acts Rules & Regulations shall be committed, or perpetrated with liberty of commencing in the first instance all suits or prosecutions for that purpose in the superior common law Judiciary in such State — Subject nevertheless to an appeal for the correction of all errors both in law & fact in rendering judgment to the Judiciary of the United States.—

3. Resolved that whenever requisitions shall be necessary,

instead of the Rule for making Requisitions mentioned in the articles of confederation the United States in Congress be authorized to make such requisitions in proportion to the whole number of white & other free Citizens & Inhabitants of every age, sex and condition including those bounded to servitude for a term of years, & three fifths of all other persons not comprehended in the foregoing description except Indians not paying Taxes, that if such requisitions be not complied with in the time to be specified therein to direct the collection thereof in the non-complying states & for that purpose to devise & pass acts directing & authorizing the same—provided that none of the powers hereby vested in the United States in Congress shall be exercised without the consent of at least States and in that proportion if the number of confederated States should hereafter be encreased or diminished.

4. Resolved that the United States in Congress be authorized to elect a fœderal Executive to consist of persons to continue in office for the term of years: to receive punctually at stated times a fixed compensation for the services by them rendered in which no increase or diminution shall be made so as to affect the persons composing the Executive at the time of such encrease or diminution—to be paid out of the fœderal treasury—To be incapable of holding any other office or appointment during their time of Service, and for years thereafter—to be ineligible a second time & removeable by Congress on application by a majority of the Executives of the several States.—That the Executive besides a general authority to execute the fœderal acts ought to ["be" stricken out] appoint all fœderal offices not otherwise provided for, and to direct all Military operations, pro-

vided that none of the persons composing the fœderal Executive shall on any occasion take command of any Troops so as personally to conduct any Military enterprize as General or in other capacity.

5. Resolved that a fœderal Judiciary be established to consist of a supreme tribunal, the Judges of which to be appointed by the Executive & to hold their offices during good behaviour—to receive punctually at stated times a fixed compensation for their services in which no encrease or diminution shall be made so as to affect the persons actually in office at the time of such encrease or diminution,—that the Judiciary so established shall have authority to hear & determine in the first instance on all impeachments of fœderal officers, and by way of appeal in the dernier resort in all cases touching the rights of Ambassadors,—In all cases of captures from an enemy—In all cases of piracies on the high Seas;—In all cases in which foreigners may be interested in the construction of any treaty or treaties, or which may arise on any of the acts for the Regulation of Trade or the collection of the fœderal Revenue—That none of the Judiciary shall during the time they remain in office be capable of receiving or holding any other office or appointment during their time of Service or for years thereafter.—

6 Resolved that all acts of the United States in Congress ["assembled" stricken out] made by virtue & in pursuance of the powers hereby & by the articles of Confederation vested in them, and all Treaties made & ratified under the authority of the United States shall be the supreme law of the respective States so far forth as these acts or Treaties shall relate to the said States or their Citizens, and that

the Judiciaries of the several States shall be bound thereby in their decisions, any thing in the respective Laws of the Individual states to the contrary notwithstanding; and that if any state, or any body of Men in any state shall oppose or prevent the carrying into execution such acts or treaties, the fœderal executive shall be authorized to call forth the powers of the Confederated States or so much thereof as may be necessary to enforce & compel an obedience to such acts, or an observance of such Treaties

7 Resolved that provision be made for the admission of new States into the Union

8 Resolved that the rule for Naturalization ought to be the same in every state

9 Resolved that a Citizen of one State committing an Offence in another State of the Union, shall be deemed guilty of the same offence as if it had been committed by a Citizen of the State in which the offence was committed.—

[INDORSEMENT.]

Copy of the New Jersey propo^{ns} offered to the Conv^{n}

[Brearley Papers. Doc. Hist., I, 336 is a copy.]

The Committee to whom were referred the "eighth Resolution reported from the Committee of the whole House, and so much of the seventh as hath not been decided on," submit the following Report. That the subsequent propositions be recommended to the Convention, on condition that both shall be generally adopted.

1st That in the first Branch of the Legislature each of the States, now in the Union, be allowed one Member for every forty thousand Inhabitants, of the description reported

in the seventh Resolution of the Committee of the whole House.—That each State not containing that number shall be allowed one Member.—That all Bills for raising or appropriating Money, and for fixing the Salaries of the Officers of the Government of the United States shall originate in the first Branch of the Legislature, and shall not be altered or amended by the second Branch: and that no Money shall be drawn from the Publick Treasury ["of the United States" stricken out] but in pursuance of appropriations to be originated by the first Branch.

2dly That in the second Branch of the Legislature, each State shall have an equal vote. Agreed 6 ay. 3 no. 2 divided.

[INDORSEMENT.]

Report of the Grand Committee. July 5th 1787.

E.

communicated by Mr Randolph, R. July 10. as an accomodating proposition to small States [Madison Papers, vol. XII, p. 60. See Doc. Hist., III, 345, footnote.]

(This & the following paper to be in an appendix)

1. Resolvd that in the second branch each State have one vote in the following cases,

1. in granting exclusive rights to Ports.
2. in subjecting vessels or seamen of the U. States to tonnage, duties or other impositions
3. in regulating the navigation of Rivers
4. in regulating the rights to be enjoyed by citizens of one State in the other States.
5. in questions arising on the guarantee of territory
6. in declaring war or taking measures for subduing a Rebellion

7. in regulating Coin
8. in establishing & regulating the post office
9. in the admission of new States into the Union
10. in establishing rules for the government of the Militia
11. in raising a regular army
12. in the appointment of the Executive
13. in fixing the seat of Government

That in all other cases the right of suffrage be proportioned according to an equitable rule of representation.

2. that for the determination of certain important questions in the 2[d] branch ["the perfect right" stricken out], a greater number of votes than a mere majority be requisite

3. that the people of each State ought to retain the perfect right of adopting from time to time such forms of republican Government as to them may seem best, and of making all laws not contrary to the articles of Union; subject to the supremacy of the General Government in those instances only in which that supremacy shall be expressly declared by the articles of the Union.

4. That altho' every negative given to the law of a particular State shall prevent its operation, any State may appeal to the national ["tribunal" stricken out] Judiciary against a negative; and that such negative if adjudged to be contrary to the power granted by the articles of the Union, shall be void

5. that any individual conceiving himself injured or oppressed by the partiality or injustice of a law of any particular State may resort to the National Judiciary, who may adjudge such law to be void, if found contrary to the principles of equity and justice.

That ye Legislatures of ye several States shall ballot in y^e^ in ye following proportions for ye supreme Executive, & a Majority of votes shall determine the Election, but in case there shall not be a Majority, the four persons having ye highest votes shall be candidates for ye office, & out of these the first Branch shall elect two, & the second Branch shall determine which of ye two so elected shall be chief Magistrate

[Constitution Papers. Scrap of paper in handwriting of Elbridge Gerry. Cf. Madison Papers, vol. III, p. 74 (July 24).]

N H 1
Mass 3
R I 1
Con 2
N Y 2
N J 2
P— 3
D 1
M 2
V 3
N C 2
S C 2
G— 1 | 25

[On the back of the above.]

The Executive shall be chosen by every years Electors to be taken by lot from the national legislature—the electors to proceed immediately to the choice of the Executive and not to seperate until it be made—

[Constitution Papers. Scrap of paper. Cf Madison Papers, vol. III, p. 75 (July 24).]

Suppose the whole to consist of 90—

65
25
90

then put in 90 balls—of which as many ["in number" erased] as the proposed number of electors shall be gilded—those ["^" erased] who draw these balls to be Electors

(note to speech of J. M. in Convention of 1787, Augus 7th

[Madison Papers, vol. XII, p. 59. Madison Papers, vol. IV, p. 7. Copy.]

* ["As the" stricken out] As appointments for the General Government here contemplated will, in part, be made by the State Gov^ts^ all the Citizens in States where the right of suffrage is not limited ["by"

stricken out] to the holders of property, will have an ["certain indirect share in elections for the" stricken out] indirect share of representation in the General Government. But this does not satisfy the fundamental principle that men can not be justly bound by laws in making which they have no part. Persons & property being both essential objects of Government, the most that either can claim, is such a structure of it ["the Government" stricken out], as will ["provide a" stricken out] leave a reasonable security for the other. And the most obvious provision, ["for" stricken out] of this double character, seems to be that of confining to the holders of property the object deemed least secure in popular Govts, the right of suffrage for one of the two Legislative branches. This is not without example ["in the" stricken out] among us, as well as other constitutional modifications, favoring the influence of property in the Government. ["It" stricken out] But the U. S. have not reached the Stage of Society in which conflicting feelings of the class with, and the class without property, have the operation natural to them in Countries fully peopled. The most difficult of all political arrangements is that of so adjusting the claims of the two classes as to give security to each ["both" stricken out], and to promote the welfare of all. The federal principle—, which enlarges the sphere of power without departing from the elective basis of ["Elective Govt" stricken out] ["in various ways" stricken out] in various ways and controuls the propensity in small republics ["to hasty" stricken out] to rash measures ["communities, to" stricken out] & the facility of forming & executing them, will be found the best expedient yet tried for solving the problem.

[Madison Papers, vol. XII, p. 47.]

Note to the Speech of J. M. on the day of

* These observations (in the Speech of J. M. See debates in the Convention of 1787. on the day of)

do not convey the speaker's more full & matured
["do not correspond with the ^ full & more deliberate" stricken out] ^ view of the subject, which is
["however it may have happened ^ omit the proper qualifi-
subjoined ["of the speaker" stricken out] He felt too much at
cations. The settled opinions ^ do not exclude persons with-
the time the example of Virginia
out property from a representative share in Government." stricken out]

The right of suffrage is a fundamental Article in ["a" stricken out] Republican Constitutions. The regulation of it is, at the same time, ["is" stricken out] ^ a task of peculiar delicacy. ["Give it" stricken out] ^ allow the right exclusively to property, and ["liberty" stricken out] ^ the rights of persons may be oppressed. ^ Extend it
proves it.
sufficiently proof ["it" stricken out]. The feudal polity alone
equally to all, and the rights of property ^ or the claims of justice may be over-
other
abundant proof is afforded by ^ popular Gov^ts and is not without examples in our own,
or interested in measures of injustice. Of this ^
ruled by a majority without property, ["What share is
particularly in the laws ["relating to the course of Justice" stricken out] impairing the obligation of contracts.
the proper security for both?" stricken out]

In civilized communities, property as well as ["liberty" stricken out] is an essential object of the laws, which encourage industry by securing the enjoyment of its fruits: that industry from which property results, & that enjoyment which consists not merely in its immediate use, but in its posthumous destination to objects of choice and of
personal rights
kindred
affection.

In a just & a free, ["and a prosperous" stricken out] Government, therefore, the rights both of property & of persons ought to be effectually guarded. Will the former be so in case of a universal & equal suffrage? Will the latter be so in case of a suffrage confined to the holders of property?

As the holders of property have at stake all the other rights common to those without property, they may be the more restrained from infringing, as well as the less tempted to infringe the rights of the latter. It is nevertheless certain,

that there are various ways in which the rich may oppress the poor; in which property may oppress liberty; and that the world is filled with examples. It is necessary that the poor should have a defence against the danger.

On the other hand, the danger to the holders of property can not be disguised, if they be undefended against a majority ["happening to be" stricken out] without property. Bodies of men are not less swayed by interest than individuals, and are less controlled by the dread of reproach and the other motives felt by individuals. Hence the liability of the rights of property, and of the impartiality of laws affecting it, to be violated by Legislative majorities having an interest real or supposed in the injustice: Hence agrarian laws, and other leveling schemes: Hence the cancelling or evading of debts, and other violations of contracts. We must not shut our eyes to the nature of man, nor to the light of experience. Who would rely on a fair decision from three individuals if two had an interest in the case opposed to the rights of the third? Make the number as great as you please, the impartiality will not be increased, nor any further security ["in" written upon "for"]justice be obtained, than what may result from the greater difficulty of ["concentrating" stricken out] uniting the wills of a greater number. ¶ In all Govts there is a ["supreme power capable of an oppressive abuse" stricken out] power which is capable of oppressive exercise. In Monarchies and Aristocracies ["oppression" stricken out] oppression proceeds from a want of sympathy & responsibility in the Govt towards the people. In popular Governments the danger lies in an ["interested" stricken out] undue sympathy among ["the" stricken out] individuals composing a majority, and a want of responsibility in the majority to the minority. The characteristic excellence of the political System of the U. S. ["is an" stricken

out] arises from a distribution and organization of its powers, which at the same time that they secure the dependence of the Gov[t] on the will of the nation, provides better guards than are found in any other popular Gov[t] against interested combinations of a Majority against the rights of a Minority.

The U. States have a precious advantage also in the actual distribution of property particularly the landed property; and in the universal hope of acquiring property, ["even landed property" stricken out] ["it" stricken out]. This latter peculiarity is among the happiest contrasts in their situation to that of the old world, where no anticipated change in this respect, can generally inspire a like sympathy with ["an interested regard for" stricken out] the rights of property. There may be at present, a Majority of the Nation, who are even freeholders, or the heirs ["to freeholds" stricken out], or aspirants to Freeholds. And the day may not be very near when such ["these characters" stricken out] will cease to make up a Majority of the community. But they cannot always so continue. With every admissible subdivision of the Arable ["soil" stricken out] lands, a populousness not greater than that of England or France, will reduce the holders to a Minority. And whenever the Majority shall be without landed property or other equivalent and without the means or hope of acquiring it, what is to secure the rights of ["property" stricken out] property ["the minority" stricken out] ag[st] the danger from an equality & universality of suffrage, ["the danger vesting power over property in the State in a majority" stricken out] vesting compleat hands without a share in it: not to speak of a danger in the mean time from a dependence of an increasing number on the wealth of a few? ["Formerly" stricken out] In other Countries this dependence result ["s" written upon "ed"] in some ["chiefly, in some" stricken out] from the relations between Landlords & Tenants in other both from that source, & from the relations between wealthy capitalists & indigent labourers. ["At the present day

In the U. S. the ["danger" stricken out] occurrence must happen from the last source; from it is to be apprehended from" stricken out] the connection between the great Capitalists in Manufactures & Commerce and the members employed by them. Nor ["are" stricken out] will accumulations of Capital ["any wise" stricken out] for a certain time be precluded by our laws of descent & of distribution; such ["is" stricken out] being the enterprize inspired by free Institutions, that great wealth in the hands of individuals and associations, ["will" stricken out] may not be unfrequent. ["in spite of the equalizing tendency of the laws." stricken out] But it may be observed, that the opportunities, may be diminished, and the ["duration" stricken out] permanency ["of" stricken out] ["for a time at least" stricken out] defeated by the equalizing tendency of the laws.

No free Country has ever been without parties, which are ["the" stricken out] a natural offspring of Freedom. An obvious and permanent division of every people is into the owners of the Soil, and the other["s" erased] inhabitants. In a certain sense the Country may be said to belong to the former. If each landholder has an exclusive property in his share, the Body of Landholders have an exclusive property in the whole. As the Soil becomes subdivided, and actually cultivated by the owners, this view of the subject derives force from the principle of natural law, which vests in individuals an exclusive right to the portions of ["soil" stricken out] ground with which he has (they have) incorporated his [their] labour & improvements. Whatever may be the rights of others derived from their birth in the Country, from their interest in the high ways & other parcels left open for common use, from their ["from their from and in the public" stricken out] as well, as in the national share in the public defence, and from their concurrent support of the Gov[t], it would seem unreasonable to extend the right so far as to give them when become the majority, a power of Legislation over the landed property without the consent of the proprietors. Some barrier ["for" stricken Edifices and monuments; shield

out] agst the invasion of their rights would not be out of place in a just & provident System of Gov^{t} The principle of such an arrangement has prevailed in all Gov^{ts} where peculiar privileges or interests held by a part ["are" stricken out] were to be secured agst violation, and in the various associations where pecuniary or other property forms the stake. In the former case a defensive right has been allowed; and if the arrangement be wrong, it is not in the ["allowance of the" stricken out] defense, but in the kind of privilege to be defended ["by it" stricken out]. In the ["other" stricken out] latter case, the shares of suffrage, have been with acknowledged justice allotted to individuals a pportioned more or less to their respective ["shares" stricken out] interests in the Common Stock.

These reflections suggest the expediency of such a modification of Gov^{t} as would give ["a defensive power" stricken out] security to the part having ["at once" stricken out] most at stake and ["the" stricken out] being of the Society most exposed to danger. ["without depriving the other part of a due reasonable share in it. The expedients" stricken out] ["following" stricken out] Three modifications present themselves.

1. Confining the right of suffrage to freeholders, & to such as hold an equivalent property, convertible of course into freeholds. The objection to this regulation is obvious. It violates the vital principle of free Gov^{t} that those who are to be bound by laws, ought to have a voice in making them. And the violation w^{d} be more strikingly unjust as the lawmakers become the minority: The regulation would be ["as unsafe also" stricken out] as unpropitious also as it would be unjust. It would ["render" stricken out] engage the numerical & physical force ["of the State adverse to its Gov^{t}" stricken out] ["in the" stricken out] in a constant struggle agst the public authority; unless kept down by a ["military" stricken out] standing army fatal to ["the liberty of" stricken out] all parties.

This paragraph to be preceded by the next one. ["2" changed to "3"]. Confining the right of electing one Branch of the Legislature to freeholders ["& those holding equivalent property" stricken out], and admitting all others to a common right with ["freeholders" stricken out], holders of property in electing the other Branch. This wd give a defensive power to holders of property, and to th["e" written upon "ose"] ["without" stricken out] class also without property when becoming a majority of electors, without depriving them in the mean time of a participation in the public Councils. If the holders of property would thus have a ["double" stricken out] twofold share of representation, they wd have at the same time a twofold stake in it, the rights of property as well as of persons the twofold object of ["all" stricken out] political Institutions. And if no ["exact & just" stricken out] exact & safe equilibrium can be introduced, it is more reasonable that a preponderating weight shd be allowed to the greater interest than to the lesser. ["This idea of" stricken out] Experience alone can decide how far the practice in this case would accord with the Theory. Such a distribution of the right of suffrage was tried in N. York and has been abandoned whether from experienced evils, or party calculations, may possibly be a question. It is still on trial in N. Carolina, with what practical indications is not known. It is certain that the trial, to be satisfactory ought to be continued for no inconsiderable period; ["perhaps" stricken out] untill in fact the non freeholders should be the majority.

(This paragraph to be transferred as above noted 2. ["3" stricken out] Confining the right of suffrage for one Branch to the holders of property, and for the other Branch to those without property. This arrangement ["tho'" stricken out] which wd give a mutual defence, where there might be mutual danger of encroachment, has an aspect of equality & fairness. But it wd not be in fact either equal or fair, because the rights ["exposed to encroachment" stricken out] to be defended ["equal because the rights to be defended" stricken out].

would be unequal, being on one side those of property ["as well" stricken out] as well as of persons, and on the other those of persons only. ["Nor would it be fair, as the temptation should" stricken out] ["and because" stricken out] The temptation also to encroach tho' in a certain degree mutual, w^d be felt more strongly on one side than on the other; ["for and" stricken out] It w^d be more likely to beget an abuse of the Legislative Negative ["in Legislation" stricken out] in extorting concessions at the expence of property, than ["of" stricken out] the reverse. ["natural" stricken out] The division of the State into the two Classes, with distinct & independ^t Organs of power, and without any intermingled Agency whatever, might ["blending Agency, would would give" stricken out] lead to contests & antipathies ["fatal to both, as in the case of" stricken out] not dissimilar to those between the Patricians & Plebeians at Rome. ["The distinction between them ["in forming one Branch" stricken out] even with an intermixture in the other, tho' suggested by ["so obvious a consideration" stricken out] so obvious & would not be free from a degree of the same tendency, and danger, and this alone brings could bring the policy of it into question." stricken out]

4 Should Experience or public opinion require an equal & universal suffrage for each branch of the Gov^t, such as prevails generally in the U. S., ["a" written upon "the"] resource ["left for guarding" stricken out] favorable to the rights of landed & other property, when its possessors become the Minority, may be found in an enlargement of the Election Districts for one branch of the Legislature, and an extension of its period of service. Large districts are manifestly favorable to the election of persons ["enjoying the influence attached" stricken out] of general respectability, and ["probably" stricken out] of probable attachment to the rights of property, over competitors depending on personal solicitations practicable ["within" stricken out] on a contracted ["limits only" ["protraction" stricken out] prolongation the theatre.

stricken out]. And altho' an ambitious candidate, of personal distinction, might occasionally recommend himself to popular choice by espousing a popular [“object, without testing its justice” stricken out] though unjust object, it might rarely happen to many districts at the same time. The tendency of a longer period of service would be, to render the Body more stable in its policy, and more capable [“of controlling unwise public excitements in the public mind” stricken out] of stemming popular currents taking a wrong direction, [“injurious projects & passions” stricken out] [“improper” stricken out] till reason & justice could regain their [“proper” stricken out] ascendancy.

5. Should even such a modification as the last be deemed inadmissible, and universal suffrage and very short periods of elections [“within” stricken out] within contracted spheres be required for each branch of the Gov^t^, the security for the holders of property when the minority, [“must” stricken out] can only be derived from the ordinary influence possessed by property, & the superior information incident to its [“larger” stricken out] holders; from the popular sense of justice [“enlightened” stricken out] [“cultivated and” stricken out] enlightened & enlarged by a diffusive [“system of” stricken out] education; and from [“from” stricken out] the difficulty of combining & effectuating unjust purposes throughout an extensive country; a difficulty essentially distinguishing the U. S. and even most of the individual States, from the small communities where a mistaken interest or [“sudden” stricken out] contagious passion, could readily unite a majority of the whole under a factious leader, in trampling on the rights of the Minor party.

Under every view of the subject, it seems indispensable that the Mass of Citizens should [“have” stricken out] not be without a voice, in making the laws which they are to obey, [“&” stricken out] & in chusing the Magistrates, [“under which they live” stricken out] who are to [“execute” stricken out] administer them, and if

the only alternative be between an equal & universal right of suffrage for ["every" stricken out] each branch of the Govt and ["a restriction" stricken out] a confinement of the entire right of the Citizens, to a part greater interest at it is better that those having the ["greater" stricken out] stake namely that of property & persons both, should be deprived of half their share in the Govt; than, that those having the lesser interest, that of personal rights only, should be deprived of the whole.

[Washington Papers, Miscellaneous Ex. C 1. Print. Most of the alterations, here indicated by reduced type, are in Washington's handwriting. Cf. Doc. Hist., I, 362, and III, 720.]

WE, the People of the United States, in order to form a more perfect union, ["to" stricken out] establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

Sect. 1. ALL legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Sect. 2. The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to ["servitude" stricken out] service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every forty thousand, but each state shall have at least one representative: and until such enumeration shall be made, the state of New-Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New-Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North-Carolina five, South-Carolina five, and Georgia three.

When vacancies happen in the representation from any state, the Executive authority thereof shall issue writs of election to fill such vacancies.

The House of Representatives shall choose their Speaker and other officers; and ["they" stricken out] shall have the sole power of impeachment.

Sect. 3. The Senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years: and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided ["by lot" stricken out] as equally as may

be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year: and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any state, the Executive thereof may make temporary appointments until the next meeting of the Legislature. which shall then fill such vacancies

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The Vice-President of the United States shall be, ["ex officio" stricken out], President of the senate, but shall have no vote, unless they be equally divided.

The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be

liable and subject to indictment, trial, judgment and punishment, according to law.

Sect. 4. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof: but the Congress may at any time by law make or alter such regulations. except as to the places of choosing Senators

The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Sect. 5. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business: but a smaller number may adjourn from day to day, and may be authorised to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

Each house may determine the rules of its proceedings; punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Sect. 6. The senators and representatives shall receive a

compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been encreased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

Sect. 7. The enacting stile of the laws shall be, "Be it enacted by the senators and representatives in Congress assembled."

All bills for raising revenue shall originate in the house of representatives: but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States. If he approve he shall sign it, but if not he shall return it, with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases

the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by ["three-fourths" stricken out] two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Sect. 8. The Congress ["may by joint ballot appoint a treasurer. They" stricken out] shall have power

To lay and collect taxes, duties, imposts and excises; to pay the debts and provide for the common defence and general welfare of the United States: but all duties, imposts, and excises shall be uniform throughout the United States.

To borrow money on the credit of the United States.

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes.

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

To provide for the punishment of counterfeiting the securities and current coin of the United States.

To establish post offices and post roads.

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

To constitute tribunals inferior to the supreme court.

To define and punish piracies and felonies committed on the high seas, and [" punish " stricken out] ^ offences against the law of nations.

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

To raise and support armies: but no appropriation of money to that use shall be for a longer term than two years.

To provide and maintain a navy.

To make rules for the government and regulation of the land and naval forces.

To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions.

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in

which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings— And

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

Sect. 9. The migration or importation of such persons as [any of the "the several" stricken out] states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder or ex post facto law shall be passed, ["nor any ex post facto law." stricken out]

No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken. + No preference shall be given by any regulation of commerce or revenue to the Ports of one State over those of another, nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another

No tax or duty shall be laid on articles exported from any state.+

No money shall be drawn from the treasury, but in consequence of appropriations made by law.

and a regular statement & acct of the Rects & expenditure of all public money shall be published from time to time.

No title of nobility shall be granted by the United States. And no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

["*Sect.* 10. No state shall coin money, nor emit bills of credit, nor make any thing but gold or silver coin a tender in payment of debts, nor pass any bill of attainder, nor ex post facto laws, nor laws altering or imparing the obligation of contracts; nor grant letters of marque and reprisal, nor enter into any treaty, alliance, or confederation, nor grant any title of nobility." stricken out]

Sect 10. No state shall enter into any treaty alliance or confederation; grant letters of Marque and Reprisal; coin money; emit bills of credit; make any thing but gold ["&" written upon "or"] silver coin a tender in payment of debts pass any Bill of attainder ex post facto law, or law impairing the obligation of Contracts, or grant any title of Nobility

No state shall, without the consent of Congress, lay any imposts except what may be absolutely necessary for executing its ["Laws" stricken out] inspection laws: and the net produce of all duties & imposts, laid by any State on imports, or exports, shall be for the use of the Treasury of the United States: and all such laws shall be subject to the revision & controul of Congress or duties on imports or exports, ["nor" stricken out] ["with such consent, but to the use of the treasury of the United States.× No state shall, without the consent of Congress, lay any duty of Tonnage Nor" stricken out] keep troops ["n" stricken out]or ships of war in time of peace, ["n" stricken out]or enter into any agreement or compact with another state, ["n" stricken out]or with any foreign power. ["N" stricken out]or engage in ["any" stricken out] war, unless ["it shall be" stricken out] actually invaded ["by enemies" stricken out], or ["the danger of invasion be so" stricken out] imminent in such danger as will not, ["as not to" stricken out] admit of delay ["until the Congress can be consulted" stricken out].

["× Provided that no State shall be restrained from imposing the usual duties on produce exported from such State, for the sole purpose of defraying the charge of inspecting, packing, storing, and indemnifying the losses on such produce, while in the custody of public officers But all such regulations shall, in case of abuse, be subject to the revision and controul of Congress" stricken out]

II.

Sect. 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected ["in the following manner" stricken out]: as follow

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in Congress: but no senator or representative ["shall be appointed an elector" stricken out], ["n" stricken out]or ["any" stricken out] person holding an office of trust or profit under the United States, shall be appointed an Elector

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the ["general" stricken out] government, of the United States directed to the president of the senate. The president of the senate shall in the presence of the senate and house of representatives open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately chuse by ballot one of them for president; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the president. But in choosing the president, the votes shall be taken by states ["and not per capita" stricken out], the representation from each state having one vote. A quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president ["by the representatives"

stricken out], the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice-president.

The Congress may determine the time of chusing the electors, and ["the time in" stricken out] the day on which they shall give their votes; ["but the election" stricken out] which day shall be ["on" stricken out] the same ["day" stricken out] throughout the United States.

No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or ["the period for chusing another" stricken out] a president shall be elected ["arrive." stricken out] for his

The president shall, at stated times, receive ["a fixed compensation for his services" stricken out] services a compensation, which shall neither be encreased nor diminished during the period for which he shall have been elected. and he shall not receive within that period any other emolument from the United States or either of them

Before he enter on the execution of his office, he shall take the following oath or affirmation: "I ["——" stricken out],

do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will to the best of my ["judgment and power" stricken out abilities], preserve, protect and defend the constitution of the United States."

Sect. 2. The president shall be commander in chief of the army and navy of the United States, and of the militia of the several States: he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, ["when called into the actual service of the United States," stricken out] and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

↑ when called into the actual service of the United States—

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by Law. But the Congress may by law ["in" stricken out]vest the appointment of such inferior officers as they think proper in the President alone—in the Courts of Law—or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

Sect. 3. He shall from time to time give to the Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient: he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment,

he may adjourn them to such time as he shall think proper: he shall receive ambassadors and other public ministers: he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Sect. 4. The president, vice-president and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors.

III.

Sect. 1. The judicial power of the United States, ["both in law and equity" stricken out], shall be vested in one supreme court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Sect. 2. The judicial power shall extend to all cases, ["both" stricken out] in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority. To all cases affecting ambassadors, other public ministers and consuls. To all cases of admiralty and maritime jurisdiction. To controversies to which the United States shall be a party. To controversies between two or more States; between a state and citizens of another state; between citizens of different States; between citizens of the same state claiming lands under grants of different States, and between a state, or the citizens thereof, and foreign States, citizens or subjects.

In cases affecting ambassadors, other public ministers

and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

Sect. 3. Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood. ["n" stricken out]or forfeiture ["," stricken out] except during the life of the person attainted.

IV.

Sect. 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

Sect. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority

of the state from which he fled be delivered up, ["and" stricken out] to be removed to the state having jurisdiction of the crime.

No person ["legally" stricken out] held to service or labour in one state under the laws thereof, escaping into another, shall in consequence of Law, or of regulation ["s subsisting" stricken out] therein be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labour may be due.

Sect. 3. New states may be admitted by the Congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States: and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Sect. 4. The United States shall guarantee to every state in this union a Republican form of government, and shall protect each of them against invasion; and on application of the legislature or of the executive when the legislature cannot be convened, against domestic violence.

V.

The Congress, whenever two-thirds of both houses shall deem it necessary, ["or on the application of two-thirds of the legislatures of ["two thirds of" stricken out] the several states" stricken out], shall propose amendments to this constitution, or on the application of the legislatures of ⅔ of the several states shall call a Convention for proposing amendments which in either case shall be valid to all intents and purposes, as part of this Constitution ["thereof" stricken out], when ["the same shall have been"

stricken out] ratified by ["three-fourths at least of" stricken out] the legislatures of three fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: Provided, that no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth ["sections of article" stricken out] clauses in the 9th sect. of the first article & that no state without its consent, shall be deprived of its equal suffrage in the Senate.

VI.

All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives beforementioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

VII.

The ratification of the conventions of nine States, shall be sufficient for the establishment of this constitution between the States so ratifying the same.

Gen[l] remarks on the Convention [Madison Papers, vol. XII, p. 64.]

For case of suffrage see Deb.: Aug. 7.

1. Its Members of the most select kind & possessing particularly the confidence of y[r] Constituents

2. do– generally of mature age & much political experience.

3. Disinterestedness & cand["or" written upon "id"] demonstrated by mutual concessions, & frequent changes of opinion

4. Few who did not change in the progress of discussions the ["their" stricken out] opinions on important points which they carried into the Convention

5. Few who, at the close of the Convention, were not ready to admit this change enlightening as the ["illuminating" stricken out] effect of the discusions —

6. And how few, ["who have not" stricken out] whose opinions at the close of the Convention, have not undergone changes on ["many" stricken out] some points, under the ["illuminating" stricken out] more enlightening influence of experience.

7. Yet how much fewer still who, if now living, with the recollection of the difficulties in the Convention, of overcoming or reconciling honest differences of opinion, ["popular prejudices and" stricken out] political biasses, and local interests; and ["a" stricken out] with due attention to the varieties & discords of opinion, the vicisitudes of parties, and the collisions real or imagined of local interests, witnessed on the face of the Nation, would not felicitate their Country on the happy result of the ["Constitution" stricken out] original Convention, and deprecate the experiment of another with general power to revise its work. ["of" stricken out]

8. The ["silent" stricken out] restraing influence of the Consti^{n} on the aberrations of the States of great importance tho' invisible. It stifles wishes & inclinations which w^{d} otherwise ripen into overt & pernicious acts. The States themselves are unconscious of the effect. Were these Constitu^{l} and insuperable obstacles out of the way—how many political abuses ills might not have sprung up where not suspected. The Propensities in some cases, as Mas: Kent^{y} &c have not been altogether contrould, ["by them" stricken out] and but for foreseen difficulties might have been follow^{d} by greater

[Constitution Papers. Ratifi^{n} of the Constitu^{n}, p.80. Transcript.]

In General Assembly.

Saturday—September 29th 1787—

Whereas the Convention of deputies from the several States composing the Union, lately held in this City, have published a Constitution for the future government of the United States, to be submitted to Conventions of deputies chosen in each State by the people thereof, under the recommendation of its legislature, for their assent and ratification. And Whereas Congress on Friday the 28th inst. did unanimously resolve, that the said Constitution be transmitted to the several legislatures of the States to the intent aforesaid. And Whereas it is the sense of great numbers of the good people of this State, already signified in petitions and declarations to this house, that the earliest steps should be taken to assemble a Convention within the State for the purpose of deliberating and determining on the said Constitution.—

Resolved, That it be recommended to such of the inhabitants of the State as are entitled to vote for representatives

to the general Assembly, that they chuse suitable persons to serve as deputies in a State Convention for the purpose herein before mentioned, that is, for the City of Philadelphia and the Counties respectively, the same number of deputies that each is entitled to of Representatives in the general Assembly—That the elections for deputies as aforesaid, be held at the several places in the said City and Counties as are fixed by law for holding the elections of representatives to the general Assembly, and that the same be conducted by the Officers who conduct the said elections of representatives, and agreeably to the rules of and regulations thereof.

Resolved, That the election of deputies as aforesaid shall be held for the City of Philadelphia, and the several Counties of the State, on the first Tuesday of November next—That the persons so elected to serve in Convention shall assemble on the third Tuesday of November, at the State-House in the City of Philadelphia—That the proposition submitted to this house by the deputies of Pensylvania in the general Convention of the States, of ceding to the United States a district of Country within this State for the seat of the general government, and for the exclusive legislation of Congress, be particularly recommended to the consideration of the Convention.—That it be recommended to the succeeding house of Assembly to make the same allowance to the attending Members of the Convention as is made to the Members of the general Assembly—and also to provide for the extraordinary expences which may be incurred by holding the said elections.

[Constitution Papers. Ratifi^ns of the Constitu^n, p. 91. Transcript.]

At a General Assembly of the State of Connecticut, in America, holden at New-Haven, in said State, on the second Thursday of October, Anno Domini 1787.

Whereas the Convention of Delegates from the United States, lately assembled in the City of Philadelphia, have reported a Constitution for said States, to be submitted to a Convention of Delegates, chosen in each State by the people thereof, under the recommendation of its legislature, for their assent and ratification: and that each Convention assenting to and ratifying the same, should give notice thereof to the United States in Congress Assembled—

And Whereas the United States in Congress Assembled, have unanimously resolved, that said Constitution, with the resolutions and letter accompanying the same, be transmitted to the several Legislatures, in order to be submitted to a Convention of Delegates, chosen in each State by the people thereof, in conformity to the Resolves of the Convention made and provided in that case;

Resolved by this Assembly, that it be, and hereby is recommended, to the people of the several Towns of this State, who are qualified by law to vote in Town-Meetings, to meet on the second Monday of November next (at their usual place of holding Town Meetings) and choose Delegates to meet in a Convention, for the purposes mentioned in the aforesaid Resolves of Convention and Congress. And that each town in this State choose by ballot the same number of Delegates to attend the Convention aforesaid, which they have now a right by law to choose for Representatives in the General Assembly; and the Towns of Colebrook and Barkhamstead, which are not represented in the General Assembly, choose each of them one Delegate to attend said

Convention: and that the said Delegates who attend the said Convention, shall be allowed the same sum for their travel to, and attendance in said Convention, as the Representatives in the General Assembly are entitled to, and may make up their debenture, and receive the same from the Treasurer accordingly.—

And it is further Resolved, that the delegates so chosen assemble on the First Thursday in January next, in the City of Hartford; and when so assembled, that they choose a President and Secretary for the said Convention; and it shall be the duty of the Select Men in the several Towns, to warn the Voters of their respective Towns, to meet on the said second Monday of November next, for the purpose of choosing such Delegates; And that such Meeting shall be under the same regulations, as other Town-Meetings are by law; and that the Certificates of the choice of delegates in the respective Towns, shall be made by the Town-Clerks in such Towns.

And that the Sheriff of the County of Hartford be, and he is hereby directed, to make provision for the said Convention in the same manner, as for the General Assembly when sitting, and his account being allowed by said Convention, shall be paid by the Treasurer of this State—

A true Copy of Record

Examined by

George Wyllys, Secretary—

In the House of Assembly of the Delaware State

Friday, P. M. November 9th 1787.

[Constitution Papers. Ratifns of the Constitun, p. 75. Transcript.]

Whereas the Convention of Deputies from the United States, lately assembled in the City of Philadelphia; have

proposed a Constitution for the said States, to be submitted to a Convention of delegates chosen in each State by the people thereof, under the recommendation of its legislature, for their assent and ratification; and that each Convention assenting to, and ratifying the same, should give notice thereof to the United States in Congress Assembled—

And Whereas the United States in Congress Assembled have unanimously resolved, That the said Constitution, with the resolutions and letter accompanying the same, be transmitted to the several legislatures, in order to be submitted to a Convention of delegates chosen in each State by the people thereof, in conformity to the resolves of the Convention made and provided in that case.—

And Whereas it is the sense and desire of great numbers of the good people of this State, signified in petitions to this General Assembly, that speedy measures should be adopted to assemble a Convention within the State, for the purpose of deliberating and determining on the said Constitution.—

Resolved, 1st That it be, and hereby is, recommended to the freemen and inhabitants of this State, who are qualified by law to vote for representatives to the general Assembly, that they choose suitable persons to serve as delegates in a State Convention for the purpose herein before mentioned, that is, for the three Counties the same number of delegates that each is entitled to of representatives in the general Assembly, to wit, ten for the County of New-Castle, ten for the County of Kent, and ten for the County of Sussex—

2nd That the elections for delegates aforesaid, in the respective Counties of this State, be held on Monday the twenty sixth day of this inst. November, at the same places where the general elections for representatives to the general

Assembly are, or may by law be appointed to be held; and that the same be conducted by the Officers who conduct the said elections of representatives, and agreeable to the rules and regulations thereof; and that the persons so elected to serve in Convention, meet at the town of Dover on the Monday following—

3d That the delegates, who attend the said Convention, be entitled to the same allowance per diem, as representatives to the general Assembly are entitled to receive for their attendance; which said allowance shall be paid by the State Treasurer, upon receiving an order for the same, signed by the President of this State.—

4th That the President or Commander in Chief transmit to the Convention aforesaid when met an authentic Copy of the fœderal Constitution aforesaid.—

5th That the proposition submitted to the general Assembly, by Petition from divers of the Freemen resident in the upper part of this State, of ceding to the United States, a district within the State for the seat of the government of the United States, and for the exclusive legislation of Congress, be and hereby is recommended to the particular consideration of the Convention—

Signed by Order of the House of Assembly—

Jehu Davis, Speaker

In Council—Saturday, A. M. November 10th 1787.

Read and Concurred in.

Signed by Order of the Council

Thomas McDonough, Speaker.

Extract from the Minutes

James Booth, Clerk of Assembly.—

[Constitution Papers. Ratifi^ns of the Constitu^n, p. 111. Transcript.]

State of Maryland—

By the House of Delegates—November 27th 1787.

Resolved, nemine contradicente, That it be recommended to the people of this State to submit the proceedings of the Federal Convention, transmitted to the General Assembly, through the medium of Congress, to a Convention of the people, for their full and free Investigation and decision.

Resolved, That it be recommended to such of the Inhabitants of this State, as are entitled to vote for delegates in the General Assembly, to meet in their respective Counties, the City of Annapolis, and Baltmore-Town, on the first Monday in April next, at the several places, fixed by Law, for holding the annual Elections, to choose four persons for each County, two for the City of Annapolis, and two for Baltimore-Town, to serve in the State Convention, for the purpose of taking under consideration the proposed plan of government for the United States: And that the said Elections be conducted agreeably to the mode and comformably with the Rules and Regulations prescribed for electing Members to serve in the House of Delegates.

Resolved, That the Delegates to be elected to serve in the State Convention, shall, at the time of election, be Citizens of the State, and actually residing therein for three years next preceding the election, Residents of the County where they shall be elected, twelve months next preceding the election, and be of twenty one years of age.

Resolved, That the Sheriffs in the respective Counties, the Mayor, Recorder and Aldermen, or any three of them in the City of Annapolis, the Commissioners of Baltimore-Town, or any three of them, shall, and they are hereby required to, give immediate notice by Advertisements, to the

people of the Counties, City of Annapolis, and Baltimore-town, of the time, place and purpose of the elections, as aforesaid.

Resolved, That the persons so elected to serve in the said Convention, do assemble on Monday the twenty first day of April next, at the City of Annapolis, and may adjourn from day to day, as occasion may require, and that the same Delegates so assembled, do then and there take into consideration the aforesaid Constitution, and if approved of by them, or a majority of them, finally to ratify the same in behalf and on the part of this State, and make Report thereof to the United States in Congress Assembled.—

Resolved, That the Delegates to be elected for Baltimore-Town, be Residents of the said town, and the Delegates to be elected for Baltimore County, be Residents of the said County, out of the limits of Baltimore-town—

By order

W. Harwood, Clk.

In the Convention of the Commonwealth of Pensylvania— [Constitution Papers. Ratifi^ns of the Constitu^n, p. 84. Transcript.]

December 15.. 1787—

Resolved

That when the Constitution proposed by the late general Convention shall have been organized, this Commonwealth will cede to the Congress of the United States the Jurisdiction over any place in Pensylvania not exceeding ten miles square which with the consent of the Inhabitants, the Congress may chuse for the seat of the Government of the United States, excepting only the City of Philadelphia, the District of Southwark and that part of the Northern

Liberties included within a Line running parallel with Vine Street at the distance of one mile northward thereof from the River Schuylkill to the southern side of the main branch of Cohockshink Creek, thence down the said Creek to its junction with the River Delaware.—But the Marsh Land and so much of the adjoining Bank on the same side of the said Creek as shall be necessary for the erecting any Dams and Works to command the Water thereof are excluded from this Exception—

Resolved, That it is the opinion of this Convention that until the Congress shall have made their Election of a district for the place of their permanent Residence and provided Buildings for their Accommodation they should have the use of such of the public Buildings within the City of Philadelphia or any other part of this State as they shall find convenient—

Resolved That the President be directed to transmit to His Excellency the President of Congress by the Secretary, the Constitution as ratified by this Convention together with the Resolution respecting the Cession of territory and the temporary residence of the honorable the Congress of the United States.

Extract from the Minutes—

Jas Campbell Secretary

[Constitution Papers. Ratifin of the Constitn, p. 142. Transcript.]

State of New-York—

In Assembly, January 31st, 1788—

Whereas the United States in Congress Assembled, did on the 28th day of September last, unanimously resolve, "That the report of the Convention of the States lately

assembled in Philadelphia, with the Resolutions and letter accompanying the the same, be transmitted to the several Legislatures, in order to be submitted to a Convention of Delegates chosen in each State by the People thereof, in conformity to the Resolves of the Convention, made and provided in that case." Therefore

Resolved, as the sense of the Legislature, that the said Report, with the said Resolutions, and letter accompanying the same, be submitted to a Convention of Delegates to be chosen by the People of this State—that it be recommended to the People of this State, to choose by ballot, Delegates to meet in Convention for the purpose aforesaid—that the number of Delegates to be elected, be the same as the number of Members of Assembly from the respective Cities and Counties—that all free male Citizens of the age of twenty-one years, and upwards, be admitted to vote, and that any person of that description be eligible—that the election be held on the last Tuesday in April next, at the same respective places where the elections for members of Assembly shall be held, and be continued by adjournment from day to day until the same shall be completed, not exceeding five days—that the inspectors who shall inspect the election for members of assembly, be also inspectors of the election for Delegates—that the inspectors do also appoint two Clerks, each of whom shall keep a poll list of the electors for Delegates—that the inspectors do provide a box to receive the ballots for Delegates—that the poll books or lists shall after due examination and correction, be signed by the inspectors attending at the closing of the poll, and the Clerks who shall have kept the same poll-books respectively, and then the box containing the ballots for Delegates, shall

be opened, and the ballots therein contained, taken out, and without being inspected, shall, together with the poll-books or lists for Delegates, be immediately put up under cover and enclosed, and the enclosure bound with tape, and sealed in such manner as to prevent its being opened without discovery; and the inspectors present at the closing of the poll, shall then put their Seals, and write their names upon the same enclosure, and one of the inspectors then present, to be appointed by a majority of them, shall deliver the same enclosure, so sealed up as aforesaid, to the Clerk of the County, without delay, who shall carefully preserve and keep the same unbroken and unopened, until the meeting of the persons who are to canvass and estimate the ballots therein contained, when he shall deliver the same enclosure unbroken and unopened to them—that the persons authorised by law to canvass and estimate the votes for members of Assembly, do also immediately after they shall have canvassed and estimated the votes to be taken at the elections to be held on the last Tuesday in April next, for members of Assembly, proceed to open the said enclosures containing the ballots for Delegates, and canvass and estimate the votes taken for Delegates, and when and as soon as they shall be able to determine upon such canvass or estimate, who by the greatest number of votes shall have been chosen for Delegates for the City or County, they shall determine the same, and thereupon without delay, make and subscribe with their own proper names and hand-writing, the requisite number of certificates of such determination, and cause one to be delivered to each of the persons so elected a Delegate, and that the said election and canvass, shall in every other respect not herein provided for, be conducted in like manner

as is provided for by law, for holding elections for members of Assembly—that the Delegates so to be chosen, do meet in Convention at the Court-house in Poughkeepsie in the County of Dutchess, on the third Tuesday of June next—that the Clerks of the Senate and Assembly, do forthwith after the Convention shall have assembled, deliver to them copies of the said report, and of the letter and resolutions which accompanied the same, to Congress, and of the said resolution of Congress—that the Delegates be allowed the same wages as the members of Assembly, and that it will be proper for the Legislature, at their next meeting, to provide for the payment thereof.—

In Assembly, February 1st 1788—

A Copy of a Resolution of the Honorable the Senate, delivered by Mr. Duane, was read, purporting that the Senate do concur with this House, in their Resolution of yesterday, relative to a Convention to be chosen within this State by the people thereof for the purposes in the said Resolution mentioned—

An Extract from the Minutes—

John McKesson, Clk.

John Collins to President of the United States.

[Constitution Papers. Ratifs of the Constitn. p. 203. Transcript.]

State of Rhode Island and Providence Plantations.

January, 18th, 1790.

I have the honour of transmitting to you an Act of the General Assembly of this State for calling a convention to take into consideration the Constitution proposed for the United States, passed on the 17th of September, A. D. 1787. by the General Convention held at Philadelphia.

This event gives me the most sincere pleasure as there is every reason to hope that the accession of this State will in a short time not only entitle the citizens thereof to all the benefits of the federal government; but as it will render the union complete, and affords a rational and pleasing prospect that the thirteen States, which by their united exertions, at the expence of their common blood and treasure, obtained liberty and independence, will be again joined in the firmest bands of friendship, under a constitution calculated to secure to them the great objects for which they fought and bled.

The operation of the Federal government, according to the existing laws, will immediately prove greatly injurious to the commercial interests of this State, unless a further suspension of them can be obtained. I do therefore, at the request of the General Assembly, and in behalf of the State, make this application to the Congress of the United States, requesting a further suspension of the Acts of Congress, subjecting the citizens of this State to the payment of foreign tonnage, and foreign duties, during the pleasure of Congress.

At the same time that I desire you to communicate this application to Congress, give me leave, Sir, to hope for your favourable influence in our behalf.

[Constitution Papers. Ratifiⁿ of the Constituᵗ, p. 205. Transcript.]

State of Rhode Island and Providence Plantations.

In General Assembly, January Session, A. D. 1790.

An Act for calling a Convention to take into consideration the Constitution proposed for the United States, passed on the 17ᵗʰ of September, A. D. 1787, by the General Convention held at Philadelphia.

Be it enacted by this General Assembly, and by the author-

ity thereof it is hereby enacted, That the new Constitution proposed for the United States, passed on the 17th of September, A. D. 1787, be submitted to the people of this State represented in a State Convention, for their full and free investigation and decision, agreeably to the resolve of the said Convention: That it be recommended to the freemen of the several towns qualified to vote for the election of deputies to the General Assembly to convene in their respective towns in legal town meeting on the second Monday in February next, and then to choose the same number of Delegates as they are entitled to elect deputies to represent them in the said Convention: And that the said Convention be holden at South Kingstown on the first Monday in March next.

And be it it further enacted by the authority aforesaid, that the said Convention be, and hereby is empowered and fully authorized finally to decide on the said Constitution, as they shall judge to be most conducive to the interests of the people of this State: And that the said Convention cause the result of their deliberations and proceedings relative to the aforesaid Constitution to be transmitted to the President of the United States of America, as soon after the rising thereof as may be.

It is voted and resolved, that his Excellency the Governor be, and he is hereby requested to transmit a copy of this Act to the President of the said United States immediately.

It is Ordered, that the Secretary cause copies hereof to be transmitted to each town clerk in the State without the least delay.

A true Copy,

Witness, Henry Ward, Sec'ry.

[Laws of the United States, Fourth Congress, vol. IV.]

RESOLVED by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President be requested to adopt some speedy and effectual means of obtaining information from the States of Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, Kentucky, Tennessee and South Carolina, whether they have ratified the amendment proposed by Congress to the Constitution concerning the suability of States; if they have, to obtain the proper evidences thereof.

JONATHAN DAYTON Speaker of the House of Representatives.

W^M^ BINGHAM President, pro tempore, of the Senate.

Approved

March Second 1797

G^o^ WASHINGTON President of the United States

I Certify that this Resolution did originate in the Senate.

Attest, SAM. A. OTIS Secretary

[Constitution Papers.]

State of North-Carolina.

By his Excellency JAMES TURNER,

Our Governor, Captain-General, and Commander in Chief, in and over the State aforesaid.

To all to whom these Presents shall come.

Know Ye, That The Name "Will. White" subscribed to the Copy hereunto annexed, is the proper hand writing of William White Esquire, who was at the time of signing the same and now is, the Secretary in and for the aforesaid State.

[SEAL.]

Therefore all due Faith, Credit, and Authority is and ought to be given to his Proceedings and Certificates as such.

In Testimony whereof, I have hereunto set my Hand, and caused to be affixed the Great Seal of the State, in the City of Raleigh, this 22nd day of December in the Year of our Lord one Thousand eight Hundred and Three and in the XXVIIIth Year of the Independence of the United States of America.

By the Governor,

J. W. GUION P. Secry

An Act to ratify an amendment of the Constitution of the United States

Whereas the Senate and House of Representatives of the United States of America in Congress assembled having at the Session which commenced at the City of Washington in the Territory of Columbia, on the seventeenth day of October One thousand eight hundred and three, being the first Session of the eighth Congress Resolved two thirds of both Houses concuring that the following paragraph as a substitute and in lieu of the third paragraph of the first section of the second Article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which when ratified by three fourths of the State Legislatures to be valid to all intents and purposes as part of the said Constitution, which amendment is in the following words to wit The Electors shall meet in their respective States and Vote by ballot for President and Vice President one of whom at least shall not be an Inhabitant of the same State with themselves, they shall name in their ballots the person voted for as President and in distinct ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President and of all persons voted for as Vice President, and

of the number of votes for each, which list they shall sign and certify and transmit sealed to the seat of the Government of the United States directed to the President of the Senate. The President of the Senate shall in the presence of the Senate and House of Representatives open all the Certificates and the votes shall then be counted. The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed, and if no person have such majority then from the persons having the highest numbers not exceeding three on the list of those voted for as President.— The House of Representatives shall choose immediately by ballot the President, but in choosing the President the votes shall be taken by States, the Representation from each State, having one vote a quorum for this purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a choice:— And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them before the fourth day of March next following, then the vice President shall act as President as in the case of the death or other Constitutional disability of the President. The Person having the greatest number of Votes as Vice President shall be the Vice President if such number be a Majority of the whole number of Electors appointed, and if no Person have a Majority, then from the two highest numbers on the list. The Senate shall choose the Vice President, a quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice but no Person

Constitutionally inelligible to the Office of President shall be eligible to that of Vice President of the United States. Sec 1 Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby eacted by the authority of the same, that the said amendment agreeable to the fifth Article of the original Constitution be held and ratified on the part of this State in lieu of the aforesaid third paragraph of the first section of the second Article as an amendment of the Constitution of the United States of America.

Read three times and ratified In General Assembly the 22nd day of Decem[r] A Dom. 1803 | Jo. Riddick S. S. S. Cabarrus Sp. H C.

A copy from the original

Test WILL: WHITE Sec.

[INDORSEMENT.]

Ratification by the Legislature of North Carolina of an Amendment to the Constitution of the U S concerning the election of President and Vice President:—received from the President of the U S, December 30. 1803.

THE PEOPLE of the State of New-York by the Grace of God, Free and Independent: To all to whom these presents shall come, Greeting: Know ye, That we having inspected the records remaining in our Secretary's office, Do find there on file, a certain act of the Legislature of our said State, in the words and figures following, to wit:—— "An Act ratifying a certain Article proposed by Congress, as an Amendment to the Constitution of the United States [Constitution Papers.]

of America.—Whereas by the fifth Article of the Constitution of the United States of America, it is provided that the Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to the said Constitution, which shall be valid to all intents and purposes as part of the said Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other mode may be proposed by Congress. And Whereas, in the first session of the eighth Congress of the United States of America, begun and held at the city of Washington, in the Territory of Columbia, on Monday the seventeenth day of October, one thousand eight hundred and three, it was Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both Houses concurring; That in lieu of the third paragraph of the first section of the second Article of the Constitution of the United States, the following be proposed as an amendment to the Constitution of the United States, which when ratified by three fourths of the Legislatures of the several States, shall be valid to all intents and purposes as part of the said Constitution, to wit: The Electors shall meet in their respective States, and vote by ballot for President and Vice President, one of whom at least shall not be an Inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President; and they shall make distinct lists of all persons voted for as President and all persons voted for as Vice President and of the number of votes for each, which lists they shall sign and certify and transmit sealed to the Seat of Government

of the United States directed to the President of the Senate. The President of the Senate shall in the presence of the Senate and House of Representatives open all the Certificates, and the votes shall then be counted: The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the greatest number not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately by ballot the President. But in choosing the President the votes shall be taken by States, the representation from each State, having one vote; a quorum for this purpose shall consist of a Member or Members from two thirds of the States, and a majority of all the States shall be necessary to a choice; and if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice President shall be Vice President, if such number be a majority of the whole number of the electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President: a quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States. And Whereas the Legislature of this state have

considered the said Article, and do agree to the same; Therefore, Be it enacted, by the people of the State of New-York, represented in Senate and Assembly, That the said Article shall be and the same is hereby ratified by the Legislature of this State.— State of New York– In Senate, February 8th 1804. This Bill having been read the third time, Resolved that the bill do pass. By order of the Senate, Jer. V. Rensselaer, President. —— State of New York, In Assembly February 10th 1804. This bill having been read the third time, Resolved, that the bill do pass. By order of the Assembly Alexr Sheldon, Speaker. — In Council of Revision, February the 11th 1804. Resolved, That it does not appear improper to the Council that this Bill should become a Law of this State. Geo: Clinton".—All which We have exemplified by these Presents. In Testimony whereof We have caused these our Letters to be made patent, and the Great Seal of our said State to be hereunto affixed: Witness our trusty and well-beloved George Clinton, Esquire, Governor of our said State, General and Commander in Chief of all the Militia and Admiral of the Navy of the same, at our city of Albany, the eleventh day of February in the year of our Lord one thousand eight hundred and four, and in the Twenty-eighth year of our Independence.

[SEAL APPENDANT.] GEO: CLINTON

[INDORSEMENT.]

Passed the Secretary's Office
the 11th day of February 1804

ARCHD McINTYRE, Dep. Sec'ry.

[COAT OF ARMS.]

State of South-Carolina.

By his Excellency

James Burchill Richardson.

Governor and Commander in Chief, in and over the State aforesaid.

To all to whom these Presents shall come.

Know Ye, That the names D. E. Dunlap and Richard Gantt whose Certificate is affixed to the instrument hereunto annexed, is the proper hand writing of the said D. E. Dunlap and Richard Gantt Esquires, who were at the time of signing the same, and now are Clerks to the Legislature of the State of South Carolina—.

[SEAL.]

JAMES B. RICHARDSON.

Certificate Govr N. Carolina

Therefore, all due Faith, Credit and Authority, is, and ought, to be, had and given to their Proceedings and Certificates as such.

In Testimony whereof, I have hereunto set my Hand, and caused to be affixed the Seal of the State, in the City of Charleston, this first day of June in the Year of our Lord

one thousand eight hundred and four and in the twenty eighth Year of the Independence of the United States of America

By the Governor,
DANIEL HUGER–Secretary of State.

State of South Carolina, one of the United States of America.

At a Session of the Legislature begun to be holden by proclamation of His Excellency the Governor, in the Town of Columbia and State aforesaid on the tenth day of May in the year of our Lord One Thousand Eight hundred and four, and from thence continued by divers adjournments untill the Sixteenth day of May One Thousand Eight hundred and four. VIZ:

In the Senate Chamber, the fourteenth day of May One Thousand Eight hundred and four.

The Senate proceeded to take into consideration the following Resolution and amendment proposed to form a part of the Constitution of the United States, to Wit:

Eighth Congress of the United States, at the first session, begun and held at the City of Washington, in the Territory of Columbia on Monday the seventeenth of October, One Thousand Eight hundred and three.

Resolved, By the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concuring, that in lieu of the third paragraph of the first section of the second Article of the constitution of the United States, the following be proposed as an amendment to the Constitution of the United States which when ratifyed by three fourths of the Legis-

latures of the several States shall be valid to all intents and purposes, as part of the said Constitution, to Wit:

The Electors shall meet in their respective States and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as Vice-President; and of the number of Votes for each; which lists they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate, the President of the Senate, shall in the presence of the Senate and House of Representatives, open all the Certificates, and the vote shall then be counted.— The person having the greatest number of Votes for President, shall be the president, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as president, the House of Representatives shall choose immediately by ballot the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one Vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the Case of the Death or other Constitutional disability of the president. The person having the greatest number of

votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of Electors appointed; and if no person have a majority then from the two highest numbers on the list, the Senate shall choose the Vice-President, a quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the Office of President shall be eligible to that of Vice-President of the United States.

Nath[l] Macon speaker of the
House of Representatives.

Attest.
John Beckley Clerk of the House of Representatives.

A: Burr. Vice-President of the United States, and President of the Senate.

Sam[l] A. Otis, Secretary of the Senate.——

The foregoing resolution being read, debated, and considered; Resolved, that this House do adopt and ratify the amendment proposed in the said resolution, and that the same do become a part of the Constitution of the United States in lieu of the third Paragraph of the first Section of the second Article thereof.

"Ordered that the Resolution be sent to the House of Representatives for their concurrence

By order of the Senate.
D. E. Dunlap. C. S.

In the House of Representatives May 15th 1804.
Resolved that this House do concur with the Senate in the foregoing resolution

"Ordered that the same be returned to the Senate.

By order of the House.

Thos. Lee. C. H. R.

In the Senate, May 16th 1804.

Resolved, that his Excellency the Governor be requested to forward, duly certified, to the President of the United States, a copy of the Joint resolution of the Senate and House of Representatives, adopting and ratifying the proposed amendment to the Constitution of the United States.

"Ordered that the foregoing resolution be sent to the House of Representatives for their concurrence.

By order of the Senate.

D. E. Dunlap. C. S.

In the House of Representatives May 16th 1804

Resolved that this House do concur with the Senate in the foregoing Resolution.

Ordered that the same be returned to the Senate.

By order of the House.

R Gantt C. H. R.

South Carolina, May 17th 1804

We do certify the foregoing to be a correct and true Copy (the words "number of" in the Eighteenth line on the second Page being first interlined) of the proceedings of the Legislature of the State of South Carolina aforesaid on the proposed amendment of the Constitution of the United States. In Testimony whereof we have hereunto set our hands the day and date last above mentioned.

D E Dunlap. Clerk of the Senate

Richard Gantt Clerk of the

House of Representatives

[Madison Papers, vol. XII, p. 64.]

Cong^res of 1774.

do. 1775. Dr Franklins draft of a Confederation with Mr Jeffersons copy and alterations, and notes

"Common Defence & Genl Welfare" found in Franklins draft of 1775—trace the phrase with its repetitions & variations thro' the successive stages & forms of the Articles—with the quere & remark of Mr Jefferson on the phrase, subjoined to ["in" stricken out] his manuscript of Franklins draft. The their equivalents terms, or appear been to have retained, throughout, as general ones descriptive of the object of the particular ones. M^r J-n objects not to the meaning but the vaguenes of the expression—Compare the successive changes of the Artic^s of Confederation with reference—to the rule of voting of Quotas

1776. June 11. next by a Committee draft see the printed Copy, with manuscript alterations in the hand of Mr Jefferson

1777. (April) to Octr 23. the next stage "see copy by J. M. from printed copy on the files of Congress, headed "Art^s of Confed^n & perpetual Union' between 12 States with amend^ts & notes in the hand of Sec^y Thomson. see also copy by J. M. of Burke's proposed amend^ts on files of Cong and of minutes of proceedings also on files, in hand of Mr Houston. Dep^y Secretary.

1777. (Novr 17) to 1781 (March vol. 1. Laws of U. S. p. 10. et seq. see dates of ratification by the States Also objections & amend^ts proposed by them, particularly of N. Jersey Also addresses of Cong^s on the difficul^s of the task, on 17th. Novr 1777. &c and 1778 July, to non-ratifying States. see p. 11–12: vol. 1. as above

The difficulties of framing a confederacy, ["incident to the task, are" stricken out] are illustrated by the long period which elapsed before that of N. A. was brought to a close, notwithstanding the urgency continually felt to hasten the event:

1. The natural reluctance in the members to part with power.

2. The rational jealousy of its abuse in other hands.
3. The rule of suffrage in the federal Councils
5. ["4" stricken out] The rule of apportioning burdens, among members unequal in size, or equal in size, but unequal in wealth.
4. The ["enumeration" stricken out] selection & definition of the proper powers to be yielded ["where the circumstances of the parties are most uniform, and the the" stricken out] even where objects of the Confederacy are most simple.
5. The ["peculiar case" stricken out] peculiarity resulting from the case of the Negroes, and the effect produced by them, on the habits, the occupations, and the interests of the holders

Increase of difficulties in framing a compound Gov^t^ like the present, for the U. S. arising from greater power to be given to the federal Head.

1. from the greater reluctance & jealousy in the grant
2. the apportionment of agency in filling the federal trusts
3. providing for the growing extent of territory and number of parties to the Union
4. Above all, the dividing & defining the several branches of power, especially the Legislative power, between the Gov^t^ of the whole & that of the parts; each Gov^t^ held to be soverign within the limits assigned to it.
5. Supposing the balance to be accurately adjusted on parchment the keeping it so in practice: Give the final decision of controverted claims to the General Gov^t^ and it may destroy the balance by encroaching on

the particular Gov^ts^—Give it to the latter, and they may (do the same by) encroaching on the former; or ["by different" stricken out] expositions of the (general) Constitution & laws, ["deprive both of" stricken out] the equal & uniform operation essential to justice and to the object of the System. Leave the points in controversy to negociation & compromize, and it is no longer a Gov^t^ but a treaty between Independent parties; not (like a case of disageement) ["a case like a d" stricken out] between different branches (or departments) of the same Gov^t^ where compromize is enforced by the impossibility in each of acting without the other: It would be a contest between Gov^ts^ each having a compleat & independent apparatus of every branch & dep^t^ of power, Legislative Executive & Judiciary, for carry^g^ its claims into forcible effect. It w^d^ be a collision without any appeal, but (to) a trial of the comparative strength of the parties.—Whether the provision made in the Gov^t^ of the U. S. for a pacific & orderly result, ["with" stricken out] without such an appeal, be the best that could be devised, ["is" stricken out] (may be) a fair problem for discussion. It has been suggested that a Tribunal jointly filled by the Genl & particular Gov^ts^ might be beneficially substituted. In Theory it has a specious aspect; but even in Theory, the structure of such a Court, ["and" stricken out] with the designation & tenures of its members,*

* members, would not be a very each task: and the question ought well to be considered how far the decisions of the existing, Court (large) so offensive to a part of the Nation, have not accorded with the will of a major part of it; in all which cases, the new tribunal would accord with the old: Another question is whether, the decisions adverse to the will of the nation, will or will not be ["controuled" (corrected) stricken out], under the existing establishment, by the ["will of" stricken out] the Nation^al^ sentiment (force) might not ["may not without" stricken out] without any radical change, be so modified as to make it sufficiently responsible to the supreme authority of the Nation.

State of Delaware,
Executive Department.
Dover November 22, 1865

Hon William H Seward
Secretary of State
Washington, D. C

Sir—

Your letter of the 18th. inst, asking that the Department of State be informed whether the Legislature of the State of Delaware has ratified the proposed Constitutional Amendment prohibiting Slavery or involuntary servitude, has been duly received

In reply I would most respectfully state, that the General Assembly of Delaware by Joint Resolution passed on the 8th of February last refused to adopt or ratify the amendment refered to.

The Resolution, after a Preamble setting forth the amendment to the Constitution as proposed by Congress, is as follows

"Resolved by the Senate and House of Representatives"
"of the State of Delaware in General Assembly met, That"
"the Members of this General Assembly hereby declare"
"their unqualified disapproval of said proposed amendment"
"to the Constitution of the United States, and hereby"
"refuse to adopt and ratify the same"

Very respectfully your obedient Servant

GOVE SAULSBURY
Governor of Delaware.

[Constitution Papers.]

State of New Jersey.

[COAT OF ARMS.] Executive Department.

Trenton Dec 1st 1865.

Hon W H Seward

Secretary of State,

Washington D. C.

Sir,

I return herewith the attested copy of a Joint Resolution of Congress approved February 1. 1865, proposing to the Legislatures of the several states, a Thirteenth Article to the Constitution of the United States, which was transmitted to me Feby. 2. 1865 by F W. Seward Esq Actg Sec'y with a request that I would cause the decision of the Legislature of New Jersey to be taken upon the subject.

In accordance with said request the original paper forwarded to me, was sent to the Senate Feby 7th 1865, for the consideration of that body— The document has been returned to me with an accompanying certificate of the decision of the Senate which I now forward to you.

A copy of the original paper was at the same time forwarded to the House of Assembly but I have not been officially informed of their action—It appears by the minutes of the House of Assembly for Wednesday March 1. 1865, that an act to ratify said proposed amendment to the Constitution was lost thirty members voting in favor and thirty members voting against it—

I am, Sir,

Very Respectfully

Your obedient Servant

JOEL PARKER

[ENCLOSURE NO. 1.]

UNITED STATES OF AMERICA.

DEPARTMENT [COAT OF ARMS.] OF STATE,

To all to whom these presents shall come, Greeting: I certify, That annexed is a true copy of a Joint Resolution of Congress, entitled "A Resolution submitting to the legislatures of the several States a proposition to amend the Constitution of the United States;" the original of which is on file in this Department.

In testimony whereof, I, William H. Seward, SECRETARY OF STATE of the UNITED STATES, have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

[SEAL.] DONE at the City of Washington, this second day of February, A. D. 1865, and of the Independence of the United States of America the 89th

WILLIAM H. SEWARD

A Resolution

Submitting to the legislatures of the several States a proposition to amend the Constitution of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of both houses concurring,) That the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of said legislatures, shall be valid to all intents and purposes, as a part of the said Constitution, namely:

Article XIII.

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

Approved, February 1, 1865.

[ENCLOSURE NO. 2.]

JOINT RESOLUTION -- No. 2.

STATE OF NEW JERSEY.

RESOLVED by the Senate and General Assembly of the State of New Jersey, That the amendment to the Constitution of the United States, proposed at the second session of the thirty-eighth Congress by a resolution of the Senate and House of Representatives of the United States of America, in congress assembled, to the several state legislatures be, and the same is hereby ratified upon the part of this legislature, and made a part of the Constitution of the United States of America; said amendment having been approved on the first day of February, A. D., eighteen hundred and sixty-five, and is in the following words, to wit:

ARTICLE XIII.

Section I. Neither slavery nor involuntary servitude, except as a punishment for crime, of which the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section II. Congress shall have power to enforce this article by appropriate legislation.

State Capitol
Trenton New Jersey,
Novr 28th 1865.

It is hereby certified that the above Joint Resolution was made the special order of the day in the New Jersey Senate on Thursday March 16. 1865 and it having been read twice and duly considered the same was taken up on its final passage and eight senators voting in the affirmative and thirteen senators in the negative (a majority of the whole) the said Joint Resolution was disagreed to.

Attest: EDWARD W. SCUDDER,
JOHN M MILLER President of Senate.
Secretary.

Report [Constitution Papers.]

Of the Joint Standing Committee on State and Federal Relations in the Legislature of the State of Mississippi, on the proposed Amendment to the Constitution of the United States as Article XIII.

The Joint Standing Committee on State and Federal Relations, to which was referred the Message of the Governor, and accompanying Documents and Resolutions, and a substitute therefor, all having reference to the adoption of an Amendment to the Constitution of the United States as Article XIII. proposed by Congress on the first day of February 1865 to the several State Legislatures, which is in the following words.

Article XIII

Section 1.—Neither slavery, nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted shall exist within the limits of the

United States, or any place subject to their jurisdiction.

Sec 2. Congress shall have power to enforce this article by appropriate legislation.

Approved February 1.·· 1865.

They report that after a careful ["examination" stricken out] consideration of the subject, they have come to the following views:

The first and main section of the article has already been adopted by Mississippi, in so far as her territory & people are concerned. It was substantially and almost in terms incorporated into the State Constitution by the late Convention. Now is it possible for the State by any Act, or in any mode, conventional or otherwise to change the status fixed by the Convention. The freedmen could not by subsequent Constitutional amendment be enslaved. The provision of the Federal Constitution having reference to the foreign slave trade, and the laws of Congress passed on the subject, prohibit the importation of negroes from Africa, or elsewhere, so that as the matter now stands, it is impossible to re-establish or re-introduce Slavery here, or elsewhere, in the South.

The late State Constitutional amendment was adopted in perfect good faith. The people have accepted it, and will adhere to it in the like spirit. Under no circumstances can the persons who were lately slaves be again enslaved. The adoption of the proposed amendment as article XIII can have no practical operation in the State of Mississippi. The absolute freedom of the African race is already assured here. It is an accomplished fact. The second section is subject to more grave objections. It confers on Congress the power to

enforce the article by "appropriate legislation". Slavery having been already abolished there is really no necessity for this section, nor can the Committee, anticipate any possible good that can result from its adoption. On the contrary it seems to be fraught with evils which this Legislature, and the people of the State of Mississippi, are most anxious to guard against. Slavery may be regarded as extinct every where in the United States. At this moment it legally exists no where except in Kentucky, and Delaware. It is there tottering to its fall. Its continuance must very soon cease.

Whatever may be the sentiments and preferences of those States, it is quite certain that slavery cannot be perpetuated there; liberation having obtained every where else. The proposed amendment is not needed, then, to coerce Kentucky, and Delaware, into emancipation.

It is the anxious desire of the people of Mississippi, to withdraw the negro race from national and State politics; to quiet forever all subjects and questions connected with it, and so far as forecast and precaution can do so, to forestall and prevent the outbreak of agitation hereafter.

The Committee cannot anticipate what construction future Congresses may put on this section. It may be claimed that it would be "appropriate" for Congress to legislate in respect to freedmen in the State. This Committee can hardly conceive of a more dangerous grant of power, than one which, by construction, might admit federal legislation in respect to persons denizens and inhabitants of the State.

If there be no danger now, the Committee fear the time may come that the public mind might be influenced on this

subject, to the degree of endangering the reserved rights of the States.

The Committee are also of the opinion that the present is not a propitious time to enlarge the powers of the Federal Government. The tendency is already too strong in the direction of consolidation. The liberties of the people, and the preservation of the complex Federative system would be better ensured by confining the Federal and State Governments in the respective spheres already defined for them. It would be unwise and inexpedient to open a subject which your Committee had beleived extinct, as themes for radicals and demagogues to use to the detriment of the best interests of the Country. Mississippi cannot give her deliberate consent to leave open any question from which agitation can arise, calculated to disturb the harmony so happily being restored among the States and the people. This section may be interpreted to refer to Congress to judge what legislation may be appropriate. It is so uncertain and indefinite that it cannot be conjectured what Congressional action may be deemed "appropriate" in the extremes to which parties have gone and may henceforth go. It is the common interest of the people in all quarters of the Union, now that vexed questions connected with the negro race are all merged and settled in liberation that the public mind should be withdrawn from anything unpleasant and irritating in the past, and the door be as effectively closed as human wisdom can devise, against future agitation and disturbance from this cause. The Committee are apprehensive that if this second section be incorporated in the Constitution, radicals and extremists will further vex and harass the country on the pretension

that the freedom of the colored race is not perfect and complete, until it is elevated to a social and political equality with the white. The tendency of the section is to absorb in the Federal Government the reserved rights of the state and people, to unsettle the equillibrum of the States in the Union, and to break down the efficient authority and sovereignty of the State, over its internal and domestic affairs. In any aspect of the subject, this section is unproductive of good, and may be fruitful of most serious evils.

Connected as the first section of the proposed Article is with the second, and both being included in the same article as an amendment to the Constitution; and a ratification of the first, and a rejection of the second, being, as your Committee think, inoperative and of non-effect.

Resolved, therefore, by the Legislature of the State of Mississippi; That it refuses to ratify the proposed Amendment to the Constitution of the United States.

Adopted by the House of Representatives November 27th. 1865.

Concurred in by the Senate December. 2nd, 1865

S. J. Gholson

Speaker of the House of Representatives

Jno. M. Simonton

President of the Senate.

Approved, December 4th 1865

Benj: G. Humphreys

Governor of Mississippi

Office of Secretary of State
Jackson Mississippi.

I, C. A. Brougher Secretary of State do certify that the foregoing "Report &c." is correctly copied from the original now on file in this office.

Given under my hand and the Great Seal of
[SEAL.] the state of Mississippi, This 8th day of December A D 1865.

C. A. BROUGHER
Secretary of State

[Constitution Papers.]

[COAT OF ARMS.]

State of Texas,
Executive Department,
Austin Texas Novr 22 1866.

Hon William H. Seward
Secretary of State U. S.
Washington, D. C.

Sir;

I have the honor herewith of enclosing to you, the action of the Eleventh Legislature of the State of Texas on the 1st day of November 1866 rejecting the proposed amendment of the Constitution of the United States passed by the Congress of the Same on the day of 1866 as Article XIV..

I am very Respectfully
Your obt. Servt
J W THROCKMORTON
Gov of the State of Texas

[ENCLOSURE.]

Joint Resolution

The Hon. The Secretary of State of the United States in a communication dated June 16th 1866 to His Excellency The Governor of the State of Texas, having submitted to the Legislature of The State of Texas the following Article proposed by a Joint Resolution of the Congress of the United States as an amendment to the Constitution of the United States to wit

Article XIV.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof are citizens of the United States and of the States wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of its laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of Electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State being twenty one years of age, and citizens of the United States, or in any way abridged except for participation in rebellion or other crime; the basis of representation therein shall be reduced in the proportion which the number of such

male citizens shall bear to the whole number of male citizens twenty one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or Elector of President and Vice President, or hold any office civil or military under the United States, or under any State, who having previously taken an oath as a member of Congress or as an officer of the United States, or as a member of any state Legislature, or as any Executive or Judicial officer of any State to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two thirds of each House remove such disability.

Section 4. The validity of the public debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion shall not be questioned. But neither the United States, nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave, but all such debts, obligations, and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce by appropriate legislation the provisions of this Article.

Be it resolved; That the Legislature of the State of Texas do not ratify the Amendment to the Constitution of the United States proposed as Article XIV in the Joint Resolution of the Congress of the United States.

Approved November 1. 1866

Department of State
Austin Texas Nov. 17. 1866

I hereby certify the foregoing to be a true Copy of the original on file in this department.

In testimony whereof I have caused the Department seal to be affixed the date above written

[SEAL.]

JNO A GREEN
Secretary of State

[Constitution Papers.]

Executive Department.
Milledgeville, Ga., 23rd Novr 1866

Hon Wm. H. Seward
Sec. of State U. S. A.

Sir

Upon the convening of The General Assembly of the State of Georgia on the 1st. inst. I placed before them the proposed amendment of the Constitution of the U. S. adding a 14th Article thereto, which I had previously received from you.

I have now the honor to transmit to you their action upon it, duly exemplified by the Secretary of state

Very Respectfully
Your obt servt

CHARLES J. JENKINS
Governor of Geo

[ENCLOSURE.]

Resolved "That the Legislature of Georgia declines to ratify the proposed amendment adding a Fourteenth Article to the Constitution of the United States.

Benning. B. Moore
President of the Senate Pro Tem

Jn°. B. Weems
Secretary of the Senate

Thos Hardeman. Jr
Speaker of the House of Reps

J. D. Waddell
Clerk of the House of Repr

Approved 13th Nov' 1866
Charles. J. Jenkins
Governor

Georgia
Office of Secretary of State
Milledgeville Novr. 21st 1866

The foregoing page contains a true and correct copy of the original resolution now of file in this office.

Given under my hand and official Seal.

[SEAL.]

N. C. BARNETT
Secretary of State.

STATE OF NORTH CAROLINA [Constitution Papers.]

Executive Department,

Raleigh December 24th 1866.

Hon. W. H. Seward,
Secretary of State,
Washington, D. C.

Sir:—

In obedience to a resolution of the General Assembly of this State, I have the honor, herewith, to transmit a Resolution of that body—"rejecting the proposed amendment, as the fourteenth article, of the Constitution of the United States."

I have the honor to be,
Very Respectfully,
Your obedient Servant,
JONATHAN WORTH
Governor of No. Carolina.

[ENCLOSURE.]

Resolution,

rejecting the proposed amendment as the fourteenth Article of the Constitution of the United States,

Resolved, That the General Assembly of the State of North Carolina, do not ratify the amendment proposed as the fourteenth Article of the Constitution of the United States.

In General Assembly read three times and ratified, this 14th day of December A. D. 1866.

R. Y. McAden
S. H° Commons
M. E. Manly
Speaker Senate

State of North Carolina

Department of State.

I, Robt W. Best Secretary of State do hereby certify that the foregoing is a true copy of the Original on file in this office

Given under my hand the 14th Decr A D 1866.

R. W. Best

Secretary of State

The State of North Carolina,

To all whom these presents shall come, Greeting:

Be it Known, That R. W. Best, whose name, in his own proper hand-writing, is subscribed to the annexed Certificate, is, and was at the time of granting the same, Secretary of State for the State of North Carolina, and that his said Certificate is in due form.

In witness whereof, His Excellency, JONATHAN WORTH, our *Governor, Captain-General and Commander-in-Chief*, hath signed with his hand these presents, and caused our great seal to be affixed thereto. [seal.]

Done at the City of RALEIGH, on the 24th day of December in the year of our Lord one thousand eight hundred and sixty-six, and in the ninety first year of our Independence.

Jonathan Worth

By the Governor: Wm H. Bagley

Private Secretary.

The Commonwealth of Virginia,
Executive Department,
Richmond, January 14th, 1867

Hon Wm H Seward
Secy State U. S.

Sir

I have the honor, herewith, to transmit the Joint Resolutions of the General Assembly of Virginia, on the subject of the proposed amendment of the Constitution of the United States, proposing to add "Article Fourteen," to the Constitution.

With Great Respect
I have the honor to be
Yr obt Serv't.
F. H. Peirpoint

[ENCLOSURE.]

Joint Resolution in relation to the Constitutional Amendment.

Agreed to, January 9th: 1867.

Whereas the Governor of the State has informed this General Assembly that on the sixteenth of June last the Secretary of State of the United States forwarded to him an official copy of a joint resolution of Congress proposing an amendment to the constitution of the United States, which joint resolution is in the following words:"

"Be it resolved by the Senate and house of representatives of the United States of America in congress assembled, (two thirds of both houses concurring) That the following article be proposed to the legislatures of the several States as an

amendment to the constitution of the United States, which, when ratified by three fourths of said legislatures, shall be valid as a part of the constitution, namely:"

Article XIV.

"Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

"Section 2. Representatives shall be apportioned among the States according to their respective number counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, representatives in congress, the executive and judicial Officers of a State or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty one years of age in such State.

"Section-3. No person shall be a Senator or representative in Congress, or elector of President and vice President, or hold any Office, Civil or Military, under the United States, or under any State, who having previously taken an oath as

a member of Congress, or as an Officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof; but Congress may, by a vote of two thirds of each house, remove such disability"

"Section 4. The validity of the public debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for Services in suppressing insurrection and rebellion, shall not be questioned; but neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, or claims, shall be held illegal and void."

"Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

Be it resolved by this General Assembly.

1.st: That they do not ratify the said proposed amendment to the constitution of the United States.

2.nd That the foregoing preamble and resolution be communicated to the Governor of the State with a request that he transmit a copy thereof to the Secretary of State of the United States.

A copy from the Rolls
Teste J Bell Bigger.
C H D & K of R of Va

25981—Bull. 11—Pt. 2—03——33

[Constitution Papers.]

Executive Office

Frankfort—Jany 14th 1867

Hon W. H. Seward Secty of State—Washington, D C

Sir:

I herewith transmit the action of the Ky Legislature upon the proposed 14 Art. to U. S. Constitution

Respectfully

THOS E BRAMLETTE

Gov

[Print.]

RESOLUTIONS

In regard to the proposed Amendment of the Constitution of the United States.

WHEREAS, The Congress of the United States did, at the first session of the Thirty-Ninth Congress, propose to the Legislatures of the several States, as an Amendment to the Constitution of the United States, the following:

"ARTICLE XIV.

"SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

"SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any

election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

"SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

"SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

"SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article"

AND WHEREAS, the same has been officially laid before this Legislature for its consideration and action; therefore, be it

1. *Resolved by the General Assembly of the Commonwealth of Kentucky*, That the proposition to amend the Constitution of the United States as aforesaid be, and the same is hereby, rejected.

2. *Resolved*, That the Governor be requested to notify the proper departments of the United States Government of this action of the Kentucky Legislature, in regard to said proposed amendment.

H. TAYLOR,
Speaker of the House of Representatives.
RICHARD T. JACOB,
Speaker of the Senate.

APPROVED 10th January, 1867.

THOS. E. BRAMLETTE, *Governor of Kentucky.*

By the Governor:

JOHN S. VAN WINKLE, *Secretary of State.*

[Constitution Papers.]

Thirty-ninth Congress.
Second Session.

CONGRESS OF THE UNITED STATES.

In the House of Representatives.

February 15th 1867.

Resolved, That the Secretary of State be directed to inform this House what States now represented in Congress have ratified the amendment to the Constitution proposed to the

several States by the Thirty-ninth Congress, and sent notice of such ratification to the State Department in addition to the States named in his letter dated fifth February instant, communicated to the House by the President in his message of the sixth instant, in response to a resolution of the House of the fourth instant, calling for information relative to the ratification of said amendment by the States.

Attest

EDW^{D} M^{C}PHERSON,

Clerk.

[Constitution Papers.]

Executive Department of S. C.

Columbia, S. C. Feb 18. 1867

Hon. William H. Seward

Sec'y of State:

Washington D. C.

Sir:

I have the honor to enclose you herewith the official certificates of John T. Sloan, the Clerk of the House of Representatives, and William E. Martin, Clerk of the Senate of South Carolina, that the Constitutional Amendment proposed by Congress to the Legislatures of the several States as the Fourteenth Article of the Constitution of the United States, has not been adopted by the General Assembly of South Carolina.

I have the honor to be

Very Resp'lly

Your Obed^{t} svt.

JAMES L. ORR

Govr of S. C.

[ENCLOSURE.]

"The Committee on Federal Relations, to whom was referred, the communication of the Hon. Wm H. Seward, Secretary of State of the United States, to His Excellency the Governor; transmitting certain proposed amendments of the Constitution of the United States, ask leave to report; that they have considered the same, and recommend, that the proposed amendments be not adopted."

I hereby certify, that the foreging Report of the Committee on Federal Relations, was agreed to by the House of Representatives, December 19th 1866, and was concurred in by the Senate December 20th 1866, of the State of South Carolina

JOHN T. SLOAN
Clerk of the House of Representatives

I hereby certify that the foregoing Report of the Committee on Federal Relations, was agreed to by the House of Representatives, December 19th. 1866, & was concurred in by the Senate December 20th 1866 of the State of South Carolina

WM. E MARTIN
Clerk of the Senate of S. C.

Official

JAMES L ORR
Governor of South Carolina

[Constitution Papers.]

[COAT OF ARMS.]

State of Maryland
Executive Department
Annapolis April 22, 1867.

Sir,

In reply to your circular dated the 16th June last, enclosing a copy of a resolution of Congress proposing to the

Legislatures of the several States a fourth Article to the Constitution of the United States, I have the honor to transmit herewith the action of the General Assembly of this State upon the said resolution, as required by law to be communicated to the Department of State:

I have the honor to be
with great respect
Your obedient servant
THO: SWANN

Hon. Wm H. Seward
Secretary of State:
Washington,
D. C.

[ENCLOSURE.]

Maryland Sct

At a Session of the General Assembly of Maryland begun and held at the City of Annapolis on the first Wednesday of January being the second day of said month in the year of our Lord one thousand eight hundred and sixty seven and ended on the twenty third day of March in the same year,

His Excellency Thomas Swann Governor

Among others the following Resolutions were enacted to Wit,

Whereas, The Governor of Maryland has laid before the Legislature, a communication from the Secretary of State of the United States, containing a proposition to amend the Constitution of the United States, as follows. viz.

Be it enacted By the Senate and House of Representatives of the United States of America, in Congress assembled (two

thirds of both Houses concurring) that the following Article be proposed to the Legislatures of the several States, as an Amendment to the Constitution of the United States, which when ratified by three fourths of said Legislatures, shall be valid, as part of the Constitution, namely

Article Fourteen

Section 1 All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are Citizens of the United States and of the State where in they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of Citizens of the United States; nor shall any State deprive any person of life liberty or property, without due process of law, nor deny to any person within its jurisdiction, the equal protection of the laws.

Section 2. Representatives shall be appointed among the several States according to their respective numbers, counting the whole number of persons in each State, excluding indians not taxed. But when the right to vote at any Election for the choice of Electors for President and Vice President of the United States, Representatives in Congress, the executive and Judicial Officers of a State or Members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty one years of age, and Citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced to the proportion which the number of such male Citizens shall bear to the whole number of male Citizens twenty one years of age in such State.

Section 3. No person shall be Senator or Representative in Congress, or Elector of President and Vice President, or hold any office, Civil or Military, under the United States,

or under any State, who having previously taken an Oath as a member of Congress or as an Officer of the United States, or as a member of any State Legislature, or as an Executive or Judicial Officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same or given aid or comfort to the enemies thereof against the same, but Congress may by a vote of two thirds of each House, remove such disability. Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States, nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.
Section 5 The Congress shall have power to enforce by appropriate legislation, the provisions of this article.

And whereas the Legislature of Maryland has duly considered the amendment to the Constitution of the United States therein proposed,

Therefore

1 Resolved By the General Assembly of Maryland That the Legislature of this State, doth hereby refuse its ratification of the said proposed amendment to the Constitution of the United States,

2 Resolved That the Governor of this State be and he is hereby requested to transmit to the Secretary of State of the United States, a duly certified Copy of these resolutions,

3 Resolved That the Governor be and he is hereby

requested to transmit a printed copy of the foregoing Report and Resolutions to the Executive of each of the several States of the Union

By the Senate.

These engrossed Resolutions the Original of which passed the Senate by yeas and nays on the 23^{d} day of March 1867 was this day read and assented to.

By Order A Gassaway Secty.

By the House of Delegates

These engrossed Resolutions the Original of which passed the House of Delegates by yeas and nays on the 23^{d} day of March 1867, was this day read and assented to.

By Order Wm R Cole chf clk.

Maryland Sct.

I, George Earle Clerk of the Court of Appeals of Maryland, do hereby certify that the aforegoing is a full and true Copy of the Resolutions of the General Assembly of Maryland of which they purport to be Copies as taken from the original engrossed Resolutions deposited in and belonging to the Office of the Court of Appeals aforesaid.

[SEAL AND FIVE-CENT REVENUE STAMP.]

In Testimony whereof, I hereunto set my hand as Clerk, and affix the seal of the said Court of Appeals, this twenty second day of April, Anno Domini Eighteen hundred and sixty seven

GEORGE EARLE, Clerk

Court of Appeals of Maryland.

Maryland Sct.

I, Richard J Bowie, Chief Justice of the Court of Appeals of Maryland, do hereby certify that George Earle is Clerk of the said Court of Appeals, and that the foregoing attestation by him is in due form and by the proper officer.

Given under my hand this twenty second day of April in the year of our Lord one thousand eight hundred and sixty seven.

[FIVE-CENT REVENUE STAMP.] RICH^{D} J. BOWIE

Maryland Sct.

I, George Earle Clerk of the Court of Appeals of Maryland do hereby certify that The Honorable Richard J Bowie who has signed the annexed certificates is, and at the time of so doing was Chief Justice of the Court of Appeals of Maryland, and that full faith and credit are due and ought to be given to his acts as such, as well in Courts of Justice as thereout

In Testimony whereof I have hereunto set my hand as Clerk, and affixed the seal of the said Court of Appeals this twenty second day of April A D 1867.

[SEAL AND FIVE-CENT REVENUE STAMP.]

GEORGE EARLE, Clerk
Court of Appeals of Maryland.

State of Maryland, to wit:

I, Thomas Swann Governor of the State of Maryland, do hereby certify, that George Earle Esqr is Clerk of the Court of Appeals of Maryland, and, as such, is Keeper of the Acts and Resolutions of the General Assembly of the

said State, and that the foregoing attestation is in due form and by the proper Officer.

In Testimony whereof, I hereunto set my hand and affix the Great Seal of the State of Maryland, this 22nd day of April A. D., eighteen hundred and ["fifty" stricken out] sixty seven.

[SEAL.]

THO: SWANN.

By the Governor:

JNO. M. CARTER

Secretary of State.

[Constitution Papers.]

State of Delaware, Executive Department,

Dover, May 2nd 1867.

Sir:

I have the honor to transmit herewith an attested copy of a Joint Resolution of the General Assembly of this State, refusing to adopt and ratify the Amendment proposed by Congress, as a Fourteenth Article of the Constitution of the United States.

I have the honor to be,

Very respectfully,

Your obedient servant,

CUSTIS W WRIGHT

Secretary of State.

To

Hon. William H Seward

Secretary of State of the United States

[ENCLOSURE.]

State of Delaware, Executive Department.

I, Custis W. Wright, Secretary of State of the State of Delaware, do hereby certify that the annexed is a true copy of a Joint Resolution of the General Assembly of the State of Delaware "Relative to the proposed amendments to the Constitution of the United States," adopted February 7th, 1867, as taken from the original rolls on file in this Department.

In testimony whereof, I have hereunto set my hand and affixed the Great Seal of the [SEAL.] State of Delaware, at Dover, this Second day of May in the year of our Lord one thousand eight hundred and sixty-seven.

CUSTIS W. WRIGHT
Secretary of State.

JOINT RESOLUTIONS

[Print.]

RELATIVE TO THE PROPOSED AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES.

Whereas in accordance with the provisions of the fifth article of the Constitution of the United States, the Senate and House of Representatives of the United States in Congress assembled, by a resolution passed at the first session of the Thirty-Ninth Congress, begun and held on the first Monday of December, A. D. 1865, have proposed a certain article of amendment to the said Constitution for the consideration of the Legislatures of the several States, which said

proposed article of amendment is in the following words and figures, to wit:

"SECTION 1. All persons born or naturalized in the United "States, and subject to the jurisdiction thereof, are citizens "of the United States and of the State wherein they reside. "No State shall make or enforce any law which shall abridge "the privileges or immunities of citizens of the United States; "nor shall any State deprive any person of life, liberty or "property, without due process of law, nor deny to any person "within its jurisdiction the equal protection of the laws.

"SECTION 2. Representatives shall be apportioned among "the several States according to their respective numbers, "counting the whole number of persons in each State, "excluding Indians not taxed. But when the right to vote "at any election for the choice of electors for President and "Vice-President of the United States, Representatives in "Congress, the Executive and Judicial officers of a State, or "the members of the Legislature thereof, is denied to any of "the male inhabitants of such State, being twenty-one years "of age and citizens of the United States; or in any way "abridged, except for participation in rebellion or other "crime, the basis of representation therein shall be reduced "in the proportion which the number of such male citizens "shall bear to the whole number of male citizens twenty-one "years of age in such State.

"SECTION 3. No person shall be a Senator or Representa- "tive in Congress, or elector of President and Vice-President, "or hold any office, civil or military, under the United States "or under any State who, having previously taken an oath "as a member of Congress, or as an officer of the United "States, or as a member of any State Legislature, or as an "executive or judicial officer of any State, to support the "Constitution of the United States, shall have engaged in "insurrection or rebellion against the same, or given aid or "comfort to the enemies thereof. But Congress may, by a "vote of two-thirds of each House, remove such disability.

"SECTION 4. The validity of the public debt of the United "States, authorized by law, including debts incurred for pay- "ment of pensions and bounties for services in suppressing "insurrection or rebellion, shall not be questioned. But "neither the United States nor any State shall assume or "pay any debt or obligation incurred in aid of insurrection "or rebellion against the United States, or any claim for "the loss or emancipation of any slave; but all such debts, "obligations and claims shall be illegal and void.

"SECTION 5. Congress shall have power to enforce by "appropriate legislation the provisions of this article."

And Whereas the Governor of this State has submitted the said proposed amendment to this General Assembly;

And Whereas this General Assembly believes that the adoption of the said proposed amendment to the Constitution would be a breach of faith implied between the States at the time of the ratification of the Constitution, would deprive one section of this country of rights and privileges which have been guarantied to them by the Constitution, would foster and excite bitter and unkindly relations between the citizens of different sections of the country, would delay, if not altogether prevent, a restoration of a perfect union between the States, and would be destructive of the ends and purposes intended to be secured by the adoption of the Constitution, Therefore,

Be it resolved by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the members of this General Assembly hereby declare their unqualified disapproval of said proposed amendment to the Constitution of the United States, and hereby refuse to adopt and ratify the same.

Resolved further, That a duly authenticated copy of the foregoing preamble and resolution be transmitted by the Secretary of State of this State to the Secretary of State of the United States.

WILLIAM A. POLK,
Speaker of the House of Representatives,
JAMES PONDER,
Speaker of the Senate.

Adopted at Dover, February 7, 1867.

[Constitution Papers.]

STATE OF OHIO,
Executive Department,
Columbus, January , 1868.

Sir:

I have the honor to transmit herewith Joint Resolution "Relating to withdrawing the assent of the State of Ohio, from the proposed XIV Constitutional Amendment," adopted by the General Assembly of Ohio, January 15, 1868.

Very respectfully,
R B Hayes
Governor.

His Excellency
Andrew Johnson
President of the United States
Washington
D. C.

[ENCLOSURE.]

United States of America, Ohio, }
SECRETARY OF STATE'S OFFICE. }

I, JOHN RUSSELL, Secretary of State of the State of Ohio, do hereby certify that the annexed is a true copy of a Joint Resolution of the General Assembly of the State of Ohio, "Relating to withdrawing the assent of the State of Ohio, from the Proposed XIV Constitutional Amendment," adopted January 15th, 1868, as taken from the original rolls on file in this office.

In Testimony Whereof, I have hereunto subscribed my name and affixed the Seal of this office, at Columbus, the 22d day of January, A. D. 1868.

[SEAL.]

John Russell
Secretary of State

H. J R. No. 1.

Relating to withdrawing the assent of the State of Ohio from the proposed XIV constitutional amendment.

Rescinding resolution passed January 11, A. D. 1867, relative to amending the constitution of the United States, and withdrawing the assent of the State of Ohio to the proposed XIV constitutional amendment.

WHEREAS, On the 11th day of January, A. D. 1867, the following joint resolution was adopted by the General Assembly of the State of Ohio, to wit:

"WHEREAS, The General Assembly has received official notification of the passage by both Houses of the thirty-ninth Congress of the United States, at its first session, of the following proposition to amend the constitution of the United States, by a constitutional majority of two-thirds thereof, in the words following, to wit:

'*Joint Resolution proposing an amendment to the constitution of the United States.*

'That the following article be proposed by the legislatures of the several states, as an amendment to the constitution of the United States, which, when ratified by three fourths of said legislatures, shall be valid as a part of the constitution, namely:

ARTICLE XIV.

'SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

'SECTION 2. Representatives shall be apportioned among the several states according to their respective numbers,

counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of Electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a state, or the Members of the Legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens, twenty-one years of age in such state.

'SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President or Vice President, or hold any office, civil or military, under the United States, or under any state, who having previously taken an oath as a Member of Congress, or as an officer of the United States, or as a member of any state Legislature, or as an Executive or Judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability.

'SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for the payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States, nor any state, shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

'SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article'

"AND, WHEREAS, Three-fourths of the legislatures of the states comprising the United States are required to give assent to the said proposed amendment to the constitution of the United States, before it becomes a part thereof; therefore,

"*Resolved, by the General Assembly of the State of Ohio*, That we hereby ratify, on behalf of the state of Ohio, the

above recited proposed amendment to the constitution of the United States.

"*Resolved*, That certified copies of the foregoing preamble and resolution be forwarded, by the Governor of Ohio, to the President of the United States, to the presiding officer of the United States Senate, and the Speaker of the United States House of Representatives."

And, Whereas, No amendment to the constitution of the United States is valid until duly ratified by three-fourths of all the states composing the United States, and until such ratification is completed, any state has a right to withdraw her assent to any proposed amendment;

And, Whereas, Several distinct propositions are combined in the said proposed amendment, several of which are already fully provided for in the constitution of the United States, and to which no person or party objects; therefore, be it

Resolved, by the General Assembly of the State of Ohio, That the above recited resolution be, and the same is hereby rescinded, and the ratification, on behalf of the state of Ohio, of the above recited proposed amendment to the constitution of the United States, is hereby withdrawn and refused.

Resolved, That copies of the foregoing preamble and resolutions, certified to by the Speaker of the House of Representatives and the President of the Senate, be forwarded to the President of the United States, to each of our Senators and Representatives in Congress, and to each of the Governors of the respective states.

Resolved, That the President of the United States be respectfully requested to cause to be forwarded to the Governor of Ohio any and all papers on file in the Executive

Department at Washington, certifying the ratification by the General Assembly of Ohio of said proposed constitutional amendment, and that the presiding officer of the United States Senate, and the Speaker of the United States House of Representatives, be requested to return to the same officer any certificate that may have been filed with them, or either of them, on the subject of said ratification.

JOHN F. FOLLETT
Speaker of the House of Representatives.

J C LEE
President of the Senate.

JANUARY 15, A. D. 1868.

[WRAPPER.]

Executive.

Jan 31st 1868
Case of Hayes R B Gov., Ohio,
Transmits Resolution withdrawing assent of State of Ohio [~~from~~ to stricken out] the proposed 14th Constitutional Amendment
Respectfully referred to the Hon. the Secretary of State
By order of the President,
R MORROW
Secretary.

SENATE

JOINT RESOLUTIONS, No. I.

STATE OF NEW JERSEY.

JOINT RESOLUTIONS withdrawing the consent of this State to the proposed Amendment to the Constitution of the United States, entitled article fourteen, and rescinding the Joint Resolution, approved September eleventh, Anno Domini eighteen hundred and sixty-six, whereby it was resolved that said proposed Amendment was ratified by the Legislature of this State.

The Legislature of the State of New Jersey having seriously and deliberately considered the present situation of the United States, *do declare and make known:*

That the basis of all government is the consent of the governed; and all constitutions are contracts between the parties bound thereby; that until any proposition to alter the fundamental law, to which all the States have consented, has been ratified by such number of the States as, by the Federal Constitution, makes it binding upon all, any one that has assented is at liberty to withdraw that assent, and it becomes its duty to do so, when, upon mature consideration, such withdrawal seems to be necessary to the safety and happiness of all; prudence dictates that a consent once given should not be recalled for light and transient causes; but the right is a natural right, the exercise of which is accompanied with no injustice to any of the parties; it has, therefore, been universally recognized as inhering in every party, and has ever been left unimpaired by any positive regulation.

The said proposed amendment not having yet received the assent of the three-fourths of the States, which is necessary to make it valid, the natural and constitutional right of this State to withdraw its assent is undeniable.

With these impressions, and with a solemn appeal to the Searcher of all Hearts for the rectitude of our intentions, and under the conviction that the origin and objects of said proposed amendment were unseemly and unjust, and that the necessary result of its adoption must be the disturbance of the harmony, if not the destruction, of our system of self-government, and that it is our duty to ourselves and our sister States to expose the same, *do further declare:*

That it being necessary, by the Constitution, that every amendment to the same should be proposed by two-thirds of both Houses of Congress, the authors of the said proposition, for the purpose of securing the assent of the requisite majority, determined to, and did, exclude from the said two Houses eighty representatives from eleven States of the Union, upon the pretence that there were no such States in the Union; but, finding that two-thirds of the remainder of said Houses could not be brought to assent to the said proposition, they deliberately formed and carried out the design of mutilating the integrity of the United States Senate, and without any pretext or justification, other than the possession of the power, without the right, and in palpable violation of the Constitution, ejected a member of their own body, representing this State, and thus practically denied to New Jersey its equal suffrage in the Senate, and thereby nominally secured the vote of two-thirds of the said Houses.

The object of dismembering the highest representative assembly in the nation, and humiliating a State of the Union,

faithful at all times to all its obligations, and the object of said amendment were one—to place new and unheard of powers in the hands of a faction, that it might absorb to itself all executive, judicial and legislative power, necessary to secure to itself immunity for the unconstitutional acts it had already committed, and those it has since inflicted on a too patient people.

The subsequent usurpations of these once national assemblies, in passing pretended laws for the establishment, in ten States, of martial law, which is nothing but the will of the military commander, and therefore inconsistent with the very nature of all law, for the purpose of reducing to slavery men of their own race in those States, or compelling them, contrary to their own convictions, to exercise the elective franchise in obedience to the dictation of a faction in those assemblies; the attempt to commit to one man arbitrary and uncontrollable power, which they have found necessary to exercise to force the people of those States into compliance with their will; the authority given to the Secretary of War to use the name of the President, to countermand the President's orders, and to certify military orders to be "by the direction of the President," when they are notoriously known to be contrary to the President's direction, thus keeping up the *forms* of the Constitution to which the people are accustomed, but practically deposing the President from his office of Commander-in-Chief, and suppressing one of the great departments of the government, that of the executive; the attempt to withdraw from the supreme judicial tribunal of the nation the jurisdiction to examine and decide upon the conformity of their pretended laws to the Constitution, which was the chief function of that august tribunal, as organized by the fathers of the

republic; all are but amplified explanations of the power they hoped to acquire by the adoption of the said amendment.

To conceal from the people the immense alterations of the fundamental law they intended to accomplish by the said amendment, they gilded the same with propositions of justice, drawn from the State Constitutions; but, like all the essays of unlawful power to commend its designs to popular favor, it is marked by the most absurd and incoherent provisions.

It proposes to make it a part of the Constitution of the United States, that naturalized citizens of the United States shall be citizens of the United States; as if they were not so without such absurd declaration.

It lodges with the legislative branch of the government the power of pardon, which properly belongs, by our system, to the executive.

It denounces, and inflicts punishment for past offences, by constitutional provision, and thus would make the whole people of this great nation, in their most solemn and sovereign act, guilty of violating a cardinal principle of American liberty; that no punishment can be inflicted for any offence, unless it is provided by law before the commission of the offence.

It usurps the power of punishment, which, in any coherent system of government, belongs to the judiciary, and commits it to the people in their sovereign capacity.

It degrades the nation, by proclaiming to the world that no confidence can be placed in its honesty or morality.

It appeals to the fears of the public creditors by publishing a libel on the American people, and fixing it forever in the national Constitution, as a stigma upon the present genera-

tion, that there must be constitutional guards against a repudiation of the public debt; as if it were possible that a people who were so corrupt as to disregard such an obligation would be bound by any contract, constitutional or otherwise.

It imposes new prohibitions upon the power of the State to pass laws, and interdicts the execution of such parts of the common law as the national judiciary may esteem inconsistent with the vague provisions of the said amendment, made vague for the purpose of facilitating encroachments upon the lives, liberties and property of the people.

It enlarges the judicial power of the United States so as to bring every law passed by the State, and every principle of the common law relating to life, liberty or property, within the jurisdiction of the federal tribunals, and charges those tribunals with duties, to the due performance of which they, from their nature and organization, and their distance from the people, are unequal.

It makes a new apportionment of representation in the national councils, for no other reason than thereby to secure to a faction a sufficient number of the votes of a servile and ignorant race to outweigh the intelligent voices of their own.

It sets up a standard of suffrage dependent entirely upon citizenship, majority, inhabitancy and manhood, and any interference whatever by the State, imposing any other reasonable qualifications as to time of inhabitancy, causes a reduction of the State's representation.

But the demand of the supporters of this amendment in this State, that Congress should *compel* the people of New Jersey to adopt what is called "impartial suffrage," makes it apparent that this section was intended to transfer to Con-

gress the whole control of the right of suffrage in the State, and to deprive the State of a free representation by destroying the power of regulating suffrage within its own limits, a power which they have never been willing to surrender to the general government, and which was reserved to the States as the fundamental principle on which the Constitution itself was constructed—the principle of self-government.

This section, as well as all others of the amendment, is couched in ambiguous, vague and obscure language, the uniform resort of those who seek to encroach upon public liberty; strictly construed, it dispenses entirely with a House of Representatives, unless the States shall abrogate every qualification, and especially that of time of inhabitancy, without which the right of suffrage is worthless.

This Legislature, feeling conscious of the support of the largest majority of the people that has ever given expression to the public will, *declare* that the said proposed amendment being designed to confer, or to compel the States to confer the sovereign right of the elective franchise upon a race which has never given the slightest evidence, at any time, or in any quarter of the globe, of its capacity for self-government, and erect an impracticable standard of suffrage, which will render the right valueless to any portion of the people, was intended to overthrow the system of self-government under which the people of United States have for eighty years enjoyed their liberties, and is unfit, from its origin, its object and its matter, to be incorporated with the fundamental law of a free people; therefore,

1. BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey*, That the joint resolution approved September eleventh, Anno Domini eighteen hundred and

sixty-six, relative to amending the Constitution of the United States, which is in the following words, to wit:

"JOINT RESOLUTION ratifying the Amendment of the Constitution of the United States.

"1. BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey*, That the amendment to the Constitution of the United States proposed at the first session of the Thirty-ninth Congress, by a resolution of the Senate and House of Representatives of the United States of America, in Congress assembled, to the several State Legislatures, be and the same is hereby ratified upon the part of this Legisture, and made a part of the Constitution of the United States of America, said amendment being in following words, to wit:

"ARTICLE XIV.

"SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

"SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

"SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President or Vice President, or hold any office, civil or military, under the United States, or under any State who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

"SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for the payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States, nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

"SECTION 5. The Congress shall have power to enforce by appropriate legislation the provisions of this article."

Be and the same is hereby rescinded, and the consent, on behalf of the State of New Jersey, to ratify the proposed fourteenth amendment to the Constitution of the United States, is hereby withdrawn.

2. *And be it resolved*, That copies of the foregoing preamble and resolution, certified to by the President of the Senate and Speaker of the General Assembly, be forwarded to the President of the United States, the Secretary of State of the United States, to each of our Senators and Representatives in Congress, and to the Governors of the respective States.

3. *And be it resolved*, That these resolutions shall take effect immediately.

In Senate, February 19th, 1868.

This Joint Resolution having been three times read and compared in the Senate,

Resolved, That the same do pass.

By order of the Senate.

(Signed) H. S. LITTLE,

President of the Senate.

House of Assembly, February 20th, 1868.

This Joint Resolution having been three times read and compared in the House of Assembly,

Resolved, That the same do pass.

By order of the House of Assembly.

(Signed) A. O. EVANS,

Speaker of House of Assembly.

In the Senate, March 5th, 1868.

The Joint Resolutions entitled, "Joint Resolutions rescinding Joint Resolution approved September eleventh, Anno Domini eighteen hundred and sixty-six, relative to amending the Constitution of the United States, and withdrawing the assent of the State of New Jersey to the proposed fourteenth Constitutional Amendment," having been returned by the Governor, with his objections, to the Senate, in which it originated, and the objections having been entered at large on their Journal, the Senate proceeded to reconsider them, and

Resolved, That the said Joint Resolutions do pass, the objections of the Governor to the contrary notwithstanding—a majority of the Senate agreeing to pass the same.

By order of the Senate.

(Signed) H. S. LITTLE,

President of Senate.

HOUSE OF ASSEMBLY, March 24th, 1868.

The Joint Resolutions entitled, "Joint Resolutions rescinding Joint Resolution approved September eleventh, Anno Domini eighteen hundred and sixty-six, relative to amending the Constitution of the United States, and withdrawing the assent of the State of New Jersey to the proposed fourteenth Constitutional Amendment," having been sent to this House by the Senate, together with the objections of the Governor thereto, and having been reconsidered by this House—

Resolved, That the said Joint Resolutions do pass, the objections of the Governor to the contrary notwithstanding, a majority of the House of Assembly agreeing to pass the same.

By order of the House of Assembly.

(Signed) A. O. EVANS,

Speaker of House of Assembly.

I hereby certify that these Joint Resolutions originated in the Senate.

(Signed) J. B. CORNISH,

Secretary of Senate.

OFFICE OF THE SECRETARY OF STATE, March 27th, 1868.

Received, at the hands of the Secretary of the Senate, the within Joint Resolutions, entitled "Joint Resolution withdrawing the consent of this State to the proposed amendment to the Constitution of the United States, entitled Article XIV. and rescinding the Joint Resolution approved September eleventh, Anno Domini eighteen hundred and sixty-six, whereby it was resolved that said proposed amendment was ratified by the Legislature of this State.

(Signed) H. N. CONGAR,

Secretary of State.

I hereby certify that the above is a true copy of Joint Resolutions withdrawing the consent of the State of New Jersey to the proposed amendment to the Constitution of the United States, entitled Article Fourteen, &c., as finally passed by the Senate, the objections of the Governor to the contrary notwithstanding.

H S. Little
President of Senate.

I hereby certify that the above is a true copy of Joint Resolutions withdrawing the consent of the State of New Jersey to the proposed amendment to the Constitution of the United States, entitled Article Fourteen, &c., as finally passed by the General Assembly, the objections of the Governor to the contrary notwithstanding.

A. O. Evans
Speaker of General Assembly.

[Constitution Papers.]

JOINT RESOLUTION

Ratifying

An Act of Congress approved June 16th 1866 and proposed to the Legislatures of the several States for ratification as

AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

Be it Resolved by the Senate and House of Representatives of the State of Arkansas in Legislature assembled,

That, Whereas the Congress of the United States has submitted to the several States for their action thereon by an Act approved June the sixteenth One thousand eight hundred and sixty six, the following Article Fourteenth (14)

as an amendment to the Constitution of the United States, namely:

Article XIV.

Section 1. All persons born or naturalized in the United States and subject to the Jurisdiction thereof, are Citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of Citizens of the United States; nor shall any State deprive any person of Life, Liberty, or Property without due process of law, nor deny to any person within its Jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers. Counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any Election for the choice of Electors for President and Vice President of the United States, Representatives in Congress the Executive and Judicial Officers of a State or the Members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty one years of age and Citizens of the United States, or in any way abridged except for participation in Rebellion or other crime; the basis of representation therein shall be reduced in the proportion which the number of such male Citizens shall bear to the whole number of male Citizens twenty one years of age in such State.

Section 3. No person shall be a Senator, or Representative in Congress or Elector of President and Vice President, or hold any Office, civil or military under the United States or under any State, who having previously taken an oath, as a Member of Congress or as an Officer of the United States

or as a Member of any State legislature, or as an Executive or Judicial Officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof.—But Congress may by a vote of two thirds of each House remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligation, and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this Article.

THEREFORE

Be it Resolved by the General Assembly of the State of Arkansas, That the foregoing recited Article fourteen (14) be and the same is hereby fully approved and ratified as a part of the Constitution of the United States.

Passed the sixth day of April, One thousand eight hundred and sixty eight.

JOHN G. PRICE

Speaker House Representatives

JOHN N SARBER

President Pro Tempore Senate

25981—Bull. 11—Pt. 2—03——35

State of Arkansas
County of Pulaski
To wit:

On this twentieth day of April in the year of our Lord One thousand eight hundred and sixty eight, before me Theodore Wagner, Justice of the Peace in Big Rock Township in and for the County of Pulaski in the State of Arkansas, came John N. Sarber, President pro tempore of the Senate and John G. Price, Speaker of the House of Representatives, of the General Assembly of the State of Arkansas, which convened in the City of Little Rock on the second day of April. A. D. One thousand eight hundred and sixty eight in pursuance of the provisions of Section Two of Article Five of the Constitution of the State of Arkansas as adopted by the Convention on the eleventh day of February A. D. One thousand eight hundred and sixty eight, a Copy of which is hereto attached, and personally acknowledged that they had executed the foregoing Certificate; and I certify that I know the said John N. Sarber and John G. Price to be the individuals described in and who executed the foregoing Certificate. In Witness whereof I have hereunto set my hand this the twentieth day of April in the year of our Lord One thousand eight hundred and sixty eight.

Theodore Wagner
Justice of the Peace

Office of Secretary of State, Arkansas
Little Rock Arkansas, April 20th 1868

I Robert J: T. White, Secretary of State, Arkansas Certify, That, Theodore Wagner, whose name is subscribed to the

foregoing instrument of writing, and whose signature thereto is genuine, was at the time of signing the same, and is now, a Justice of the Peace in Big Rock Township in and for the County of Pulaski in this State duly Commissioned and Qualified.

In Testimony whereof I have hereunto set my hand and affixed my Seal of Office this
[SEAL.] the twentieth day of April in the year of our Lord One thousand eight hundred and sixty eight.—

ROBERT J. T. WHITE
Secretary of State, Arkansas

[Constitution Papers.]

By the President of the United States of America.

A Proclamation.

Whereas by an act of Congress, entitled "An act to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress," passed on the twenty-fifth day of June, one thousand eight hundred and sixty-eight, it is declared that it is made the duty of the President within ten days after receiving official information of the ratification by the legislature of either of said States of a proposed amendment to the Constitution known as article fourteen to issue a proclamation announcing that fact;

And whereas the said act seems to be prospective;

And whereas a paper purporting to be a resolution of the legislature of Florida adopting the amendment of the thirteenth and fourteenth articles of the Constitution of the United States was received at the Department of State

on the 16th of June, 1868, prior to the passage of the act of Congress referred to, which paper is attested by the names of Horatio Jenkins, jr., as president pro tem. of the Senate, and W. W. Moore, as speaker of the assembly, and of Wm. L. Apthoop, as Secretary of the Senate and Wm. Forsyth Bynum, as clerk of the Assembly, and which paper was transmitted to the Secretary of State in a letter, dated Executive Office, Tallahassee, Florida, June 10, 1868, from Harrison Reed, who therein signs himself Governor;

And whereas on the 6th day of July, 1868, a paper was received by the President, which paper being addressed to the President bears date of the 4th day of July, 1868, and was transmitted by and under the name of W. W. Holden, who therein writes himself Governor of the State of North Carolina, which paper certifies that the said proposed amendment known as article fourteen did pass the Senate and House of Representatives of the General Assembly of North Carolina on the second day of July instant, and is attested by the names of John H. Boner, or Bower, as Secretary of the House of Representatives, and T. A. Byrnes, as Secretary of the Senate, and its ratification on the 4th of July, 1868, is attested by Tod R. Caldwell as Lieut. Governor President of Senate and Jo. W. Holden, as Speaker House of Representatives:

Now, therefore, be it known that I, Andrew Johnson, President of the United States of America, in compliance with and execution of the act of Congress aforesaid, do issue this proclamation announcing the fact of the ratification of the said amendment by the legislature of the State of North Carolina in the manner hereinbefore set forth.

In testimony whereof I have signed these presents with my hand, and have caused the seal of the United States to be hereto affixed.

Done at the city of Washington this eleventh day of July, in the year of our Lord one thousand eight hundred and sixty-eight, and of the Independence of the United States of America the ninety-third.

[SEAL.]

ANDREW JOHNSON

By the President:

WILLIAM H SEWARD

Secretary of State.

[Constitution Papers.]

By the President of the United States of America.

A Proclamation.

Whereas by an act of Congress entitled "An act to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress," passed on the twenty-fifth day of June, one thousand eight hundred and sixty-eight, it is declared that it is made the duty of the President within ten days after receiving official information of the ratification by the legislature of either of said States of a proposed amendment to the Constitution known as Article fourteen to issue a proclamation announcing that fact;

And whereas a paper was received at the Department of State on the seventeenth day of July, one thousand eight hundred and sixty-eight, which paper, bearing date of the

ninth day of July, one thousand eight hundred and sixty-eight, purports to be a resolution of the Senate and House of Representatives of the State of Louisiana in General Assembly convened, ratifying the aforesaid amendment, and is attested by the signature of Geo. E. Bovee as Secretary of State, under a seal purporting to be the seal of the State of Louisiana:

Now therefore, be it known that I, Andrew Johnson, President of the United States of America, in compliance with and execution of the act of Congress before mentioned, do issue this my proclamation announcing the fact of the ratification of the said amendment by the legislature of the State of Louisiana in the manner hereinbefore set forth.

In testimony whereof I have signed these presents with my hand, and have caused the Seal of the United States to be hereto affixed.

Done at the City of Washington this eighteenth day of July, in the year of our Lord one thousand eight hundred and sixty-eight, and of the Independence of the United States of America the ninety-third.

[SEAL.]

ANDREW JOHNSON

By the President:

WILLIAM H. SEWARD,
Secretary of State.

[Constitution Papers.]

By the President of the United States of America.

A Proclamation.

Whereas by an act of Congress entitled "an Act to admit the states of North Carolina, South Carolina, Louisiana,

Georgia, Alabama, and Florida to representation in Congress," passed the twenty fifth day of June, 1868, it is declared that it is made the duty of the President within ten days after receiving official information of the ratification by the Legislature of either of said states of a proposed amendment to the Constitution known as article fourteen to issue a proclamation announcing that fact;

And whereas on the 18th day of July, 1868, a letter was received by the President, which letter, being addressed to the President bears date of July 15, 1868, and was transmitted by and under the name of R K Scott, who therein writes himself Governor of South Carolina, in which letter was enclosed and received at the same time by the President, a paper purporting to be a resolution of the Senate and House of Representatives of the General Assembly of the state of South Carolina, ratifying the said proposed amendment, and also purporting to have passed the two said houses respectively on the 7th and 9th of July, 1868, and to have been approved by the said R. K. Scott as Governor of said state on the 15th of July, 1868, which circumstances are attested by the signatures of D. T. Corbin, as President pro tempore of the Senate and of F. J. Moses, Jr, as speaker of the House of Representatives of said state, and of the said R K Scott as governor;

Now, therefore, be it known that I, Andrew Johnson, President of the United States of America, in compliance with and execution of the act of Congress aforesaid, do issue this my proclamation announcing the fact of the ratification of the said amendment by the legislature of the state of South Carolina in the manner hereinbefore set forth.

In testimony whereof I have signed these presents with

my hand, and have caused the seal of the United States to be hereto affixed.

Done at the city of Washington, this eighteenth day of July, in the year of our Lord one thousand eight hundred and sixty eight, and of the Independence of the United States of America the ninety-third.

[SEAL.]

ANDREW JOHNSON

By the President:

WILLIAM H SEWARD

Secretary of State

[Constitution Papers.]

By the President of the United States of America.

A Proclamation.

Whereas by an act of Congress entitled "An Act to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress" passed the twenty-fifth day of June, 1868, it is declared, that it is made the duty of the President within ten days after receiving official information of the ratification by the legislature of either of said States of a proposed Amendment to the Constitution known as Article fourteen to issue a proclamation announcing that fact;

And whereas a letter was received this day by the President, which letter, being addressed to the President, bears date of July 16, 1868, and was transmitted by and under the name of Wm H. Smith, who therein writes himself Governor of Alabama, in which letter was enclosed and received at

the same time by the President, a paper purporting to be a resolution of the Senate and House of Representatives of the General Assembly of the State of Alabama, ratifying the said proposed amendment, which paper is attested by the signature of Charles A. Miller, as Secretary of State, under a seal purporting to be the seal of the State of Alabama, and bears the date of approval of July 13, 1868, by Wm H Smith as Governor of said State

Now, therefore, be it known that I, Andrew Johnson, President of the United States of America, in compliance with and execution of the Act of Congress before mentioned, do issue this my proclamation announcing the fact of the ratification of the said amendment by the legislature of the State of Alabama in the manner hereinbefore set forth.

In testimony whereof I have signed these presents with my hand, and have caused the seal of the United States to be hereto affixed.

Done at the City of Washington this twentieth day of July, in the year of our Lord one thou-
[SEAL.] sand eight hundred and sixty eight, and of the Independence of the United States of America the ninety-third.

ANDREW JOHNSON

By the President:
WILLIAM H SEWARD,
Secretary of State.

A Joint Resolution [Constitution Papers.]

ratifying the amendment to the Constitution of the United States proposed by the XXXIX Congress

Whereas by a joint resolution of the XXXIX Congress (two thirds of both branching concurring) there has been proposed to the Legislature of the several States an amendment to the Constitution of the United States in the words following, to wit:

Article 14

Sec. 1 All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the law.

Section 2 Representatives shall be apportioned among the several states according to their respective numbers counting the whole number of persons in each state excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States representatives in Congress the executive and judicial officers of a state or the members of the Legislature thereof is denied to any of the male inhabitants of such state being twenty one years of age, and citizens of the United States or in any way abridged except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty one years of age in such state.

Sec 3. No person shall be a Senator or Representative in Congress or elector of President and Vice President or hold

any office civil or military under the United States or under any state who having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

Section 4th The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5th The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Be it therefore resolved by the Senate and House of Representatives that the General Assembly (The Legislature) of the State of Georgia does hereby ratify the said proposed amendment as a part of the Constitution of the United States

BENJAMIN CONLEY
President of the Senate

R. L McWHORTERS
Speaker House Representatives

RUFUS B. BULLOCK
Governor of Georgia

[INDORSEMENT.]

A joint Resolution ratifying the amendment to the Constitution of the United States proposed by the Thirty Ninth Congress

In Senate
Adopted July 21st 1868.
A. E. MARSHALL
Secy of the Senate

In House
Concurred in July 21/68
M A HARDIN
Clk House of Representatives

[CARD ANNEXED.]

E. F. Blodgett,
Col & A. D. C. to Gov. of Ga.
Bearer of Official Despatches from the
Gov. of Georgia.

[Constitution Papers.]

By the President of the United States of America.
A Proclamation.

Whereas by an Act of Congress entitled "An Act to admit the States of North-Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress" passed the twenty-fifth day of June, 1868, it is declared, that it is made the duty of the President within ten days after receiving official information of the ratification by the legislature of either of said States of a proposed amendment to the Constitution, known as article fourteen, to issue a proclamation announcing that fact;

And whereas a paper was received at the Department of State this twenty-seventh day of July, one thousand eight hundred and sixty-eight—purporting to be a joint resolution of the Senate and House of Representatives of the General Assembly of the State of Georgia, ratifying the said proposed amendment and also purporting to have passed the two said houses respectively on the 21st of July, 1868, and to have been approved by Rufus B. Bullock, who therein signs himself Governor of Georgia, which paper is also attested by the signatures of Benjamin Conley as President of the Senate and R. L. McWhorters as Speaker of the House of Representatives and is further attested by the signatures of A. E. Marshall as Secretary of the Senate and M. A. Hardin as Clerk of the House of Representatives;

Now, therefore, be it known that I, Andrew Johnson, President of the United States of America, in compliance with and execution of the act of Congress before mentioned, do issue this my proclamation announcing the fact of the ratification of the said amendment by the legislature of the State of Georgia in the manner hereinbefore set forth.

In testimony whereof I have signed these presents with my hand, and have caused the seal of the United States to be hereto affixed.

Done at the City of Washington this twenty-seventh day of July, in the year of our Lord [SEAL.] one thousand eight hundred and sixty-eight, and of the Independence of the United States of America the ninety-third.

ANDREW JOHNSON

By the President:

WILLIAM H SEWARD,

Secretary of State.

[Constitution Papers.] H. C. R. 68. Relating to a certain proposed Amendment to the Constitution of the United States.

Whereas, The Congress of the United States has submitted the following proposed amendment to the Constitution of the United States, to the Legislatures of the several states of the Union for ratification, viz:

Article fifteen, Section one

The right of Citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude

Section two

The Congress, by appropriate legislation may enforce the provisions of this article.

Therefore be it resolved by the House of Representatives of the State of Kansas, the Senate concurring, that the foregoing Proposed Amendment be and the same is hereby ratified.

Resolved that the Governor of the State of Kansas is hereby requested to transmit to the President of the United States, the President of the Senate and Speaker of the House of Representatives in Washington a copy of the foregoing resolution duly certified under the Great Seal of the State by the presiding officers of the two houses and Secretary of the Senate and chief clerk of the House.

I Thomas Moonlight Secretary of State do hereby certify that the foregoing is a true and correct copy of the original concurrent resolution on file in this office.

In testimony whereof I have subscribed my name and affixed the Great Seal of the State this first day of March. A. D. 1869.

[SEAL.] THOMAS MOONLIGHT
Sec'y. of State

Adopted by the House of Representatives February 27th. 1869.

HENRY C. OLNEY Chief Clerk.

M. S. ADAMS Speaker of the H. of Rept.

Concurred in unanimously by the Senate February 27th. 1869

GEO C CROWTHER Secretary of Senate

C. V. ESKRIDGE, Pres. of the Senate

[WRAPPER.]

March 1^{t} 1869.

Moonlight Tho's.

Secty. of State of Kansas

Transmitting to President certified copy of concurrent resolution passed by Kansas Legislature, ratifying 15^{h} Amendment to Constitution of the U. S.

Adopted by H. R. Feby. 27 1869.

Concurred in by Senate Feby. 27. 1869.

STATE OF NEW YORK. [Constitution Papers.]

[COAT OF ARMS.] Executive Chamber.
Albany, Jan'y 7, 1870.

Sir:

At the request of the Legislature of this State, I forward to you copies of certain concurrent resolutions passed

by it on the 5th of January, instant, in reference to the proposed Fifteenth Amendment of the Constitution of the United States, and request that the receipt thereof may be acknowledged.

Very Respectfully

JOHN T HOFFMAN

Honble Hamilton Fish
Secretary of State
Washington. D. C.

[ENCLOSURE.]

United States of America.

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by

JOHN T. HOFFMAN,

GOVERNOR OF THE STATE OF NEW YORK.

It is Hereby Certified, That Diedrick Willers Jr was, on the day of the date of the annexed certificate, Deputy Secretary of State of the State of New York and duly authorized to grant the same; that the same is in due form, and executed by the proper officer; that the Seal affixed to said Certificate is the Seal of the Secretary of State of said State that the signature thereto of the said Deputy Secretary of State is in his proper hand writing, and is genuine; and that full faith and credit may and ought to be given to his official acts.

[SEAL.]

In Testimony Whereof, The Great Seal of the State is hereunto affixed. Witness my hand at the City of Albany, the seventh day of January in the year of our Lord one thousand eight hundred and seventy—

JOHN T HOFFMAN

Passed the Secretary's Office,
the 7 day of January 1870.

H. A. NELSON
Secty. of State

CONCURRENT RESOLUTIONS, REPEALING, RESCINDING AND ANNULLING THE PREAMBLE AND RESOLUTION OF THE LEGISLATURE OF THE STATE OF NEW YORK, PASSED APRIL 14, 1869, RELATIVE TO THE PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.

Whereas, At the last session of the Legislature of this State, a preamble and concurrent resolution were adopted in the words and figures following, to wit:

"*Whereas*, At the session of the Fortieth Congress, it was resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both houses concurring, that the following article shall be proposed to the Legislatures of the several states as an amendment to the Constitution of the United States, which amendment when it shall have been ratified by three-fourths of the said Legislatures, shall be valid to all intents and purposes as a part of the said Constitution, namely:

"ARTICLE FIFTEEN.

"§ 1. The right of citizens of the United States to vote "shall not be denied or abridged by the United States, or

"by any State, on account of race, color, or previous condi-
"tion of servitude.

"§ 2. The Congress shall have power to enforce this article
"by appropriate legislation.

"*Therefore Resolved* (if the Assembly concur), That the "said proposed Amendment to the Constitution be and the "same is hereby ["is" stricken out] ratified by the Legislature "of the State of New York."

And Whereas, The proposed Fifteenth Amendment above recited has not been ratified by the Legislatures of three-fourths of the several States, and has not become a part of the Constitution of the United States;

And Whereas, The State of New York, represented in the Legislature here now assembled, desires to withdraw the consent expressed in the above recited concurrent resolution;

Now, therefore, be it Resolved (if the Assembly concur), That the above recited concurrent resolution be and it hereby is repealed, rescinded and annulled.

And be it further Resolved (if the Assembly concur), That the Legislature of the State of New York refuses to ratify the above recited proposed Fifteenth Amendment to the Constitution of the United States, and withdraws absolutely any expression of consent heretofore given thereto, or ratification thereof.

Be it further Resolved (if the Assembly concur), That the Governor be requested to transmit a copy of these Resolutions and Preamble to the Secretary of State of the United States, at Washington, and to every member of the Senate

and House of Representatives of the United States, and the Governors of the several States.

STATE OF NEW YORK,
IN ASSEMBLY, *Jan*^{y} 5, 1870.
The foregoing Resolutions were duly passed.
By order of the Assembly.
C. W. Armstrong,
Clerk.

STATE OF NEW YORK,
IN SENATE, *Jan*^{uary} 5, 1870.
The foregoing Resolutions were duly passed.
By order of the Senate.
Hiram Calkins,
Clerk.

STATE OF NEW YORK,
OFFICE OF SECRETARY OF STATE,
ALBANY, *January 7th*, 1870.

I CERTIFY, that the above is a true copy of certain concurrent resolutions and preamble on file in this office. and of the whole thereof—Witness my hand and seal of office at the city of Albany on the day and year first above written

[SEAL.]

D. WILLERS JR. Dep Secretary of State.

[Constitution Papers.]

House of Representatives,
At the City of Jackson in the
State of Mississippi, on the
17th day of January 1870

The following proceedings were this day held in the House of Representatives of the State of Mississippi assembled.

* * * * *

A communication from the Senate was received and ordered to be read.

Mr President:

The special committee to whom was referred the message from his Excellency the Provisional Governor in relation to the 14th and 15th Amendments to the Constitution of the United States have had the same under consideration, and have agreed upon joint resolutions for the ratification of said amendments, and they respectfully recommend the adoption of the same.

Whereas the Congress of the United States proposed the following as the Fourteenth Amendment to the Federal Constitution viz:

Article XIV.

Sec. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of Citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Sec. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Sec. 3. No Person shall be a Senator or Representative in Congress, or elector of President and Vice President or hold any office civil or military under the United States, or under

any State, who having previously taken an oath, as a member of Congress or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House remove such disability. [" rem " stricken out]

Sec. 4 The validity of the public debt of the United States authorized by law including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Sec. 5. The Congress shall have power to enforce by appropriate legislation the provisions of this Article.

Therefore Resolved by the Senate (the House of Representatives concurring herein) That the State of Mississippi by its Legislature ratifies and consents to said amendment.

Whereas the Congress of the United States has proposed the following as the Fifteenth amendment to the Federal Constitution viz.

Sec. 1. The right of Citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude

Sec. 2. The Congress shall have power to enforce this article by appropriate Legislation

Therefore Resolved by the Senate (the House of Representatives concurring herein) That the State of Mississippi by its Legislature ratifies and consents to said amendment.

Mr. Parker of Amite offered the following resolution;—

Resolved, That the House of Representatives of the State of Mississippi do now concur with the action of the senate in

the ratification of articles 14 & 15. of amendments to the Constitution of the United States.

Mr. Hodges moved to amend by voting separately on each article of amendment. Carried

Mr. Hodges moved that the yeas and nays be recorded in the action of the House on the joint resolution ratifying the Fourteenth and Fifteenth Amendments to the constitution of the United States. Carried.

The vote on the Fourteenth Amendment was as follows:

Yeas.

Mr. Speaker, Messrs. Balch Barrow Bolton Boulden Bowles Boyd Buchanan Cabell Campbell Carrington Charles Clark Coggeshall Conner Davis Foley Foster Foote French Gillis Gowan Handy Hart Harrington Hatch Hemmingway Henderson Herbert Higgins Hodges Holland Holmes Howard Head Hunt Jacobs Johns Jones of Marshall, Landon Langford Lewis Loomis Lynch Mayson McNees Mister Moore Morgan Munson Newsom Nicholson Norris Osborne Owen Owings Parker Phillips Piles Pitman Quinn Roane of Calhoun, Roane of Pike Sessions Stiles Snowden Spelman Stewart Stites Stone Taylor Underwood Walker Warren Wells White Whiting Williams Wood of Yazoo —79.—

Nays.

Messrs. Collins and Greer—— 2

The following is the vote on the joint Resolution ratifying the Fifteenth Amendment.

Yeas.

Mr Speaker, Balch, Barrow, Bolton, Boulden, Bowles, Boyd, Buchanan, Cabell, Campbell Charles, Clark, Coggeshall, Collins, Conner, Currie, Davis, Foley, Foote Foster French, Gillis,

Gowan Greer, Handy, Hart, Hatch Head. Hemmingway, Henderson, Herbert, Higgins, Hodges, Holland, Holmes, Howard, Hunt, Jacobs, Johns, Jones of Marshall, Landon, Langford, Lewis, Lynch Loomis, Mason, Mister, Moore, Morgan, Munson Newsom, Norris, Osborne, Owen, Owings, Parker, Phillips, Piles, Pittman, Quinn, Roane of Calhoun Roane of Pike, Sessions, Snowden, Spelman Stewart, Stiles Stites, Stone, Street, Taylor, Underwood, Walker, Warren, White, Whiting, Williams Willing, Wood of Yazoo. 79.

Nays.

—None—

I certify, that the above is a correct abstract of the proceedings of the House of Representatives, State of Mississippi, relative to the ratification of the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

ROBT. J. ALCORN.
Clerk of the House of Representatives
State of Mississippi

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